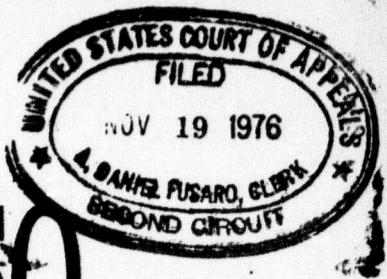


*United States Court of Appeals
for the Second Circuit*



**BRIEF FOR
APPELLANT**



No. 76-6150

United States Court of Appeals
FOR THE SECOND CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff-Appellee

v.

LOCAL 14, INTERNATIONAL UNION OF OPERATING ENGINEERS;
LOCAL 15, INTERNATIONAL UNION OF OPERATING ENGINEERS;
ET AL., Defendants-Appellants

On Appeal from the United States District Court
for the Southern District of New York

BRIEF FOR APPELLANT LOCAL 15

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Plaintiff-Appellee,

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LOCAL 14, INTERNATIONAL UNION OF OPERATING
ENGINEERS; LOCAL 15, INTERNATIONAL UNION
OF OPERATING ENGINEERS; ET AL.,

Defendants-Appellants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR APPELLANT LOCAL 15

PRELIMINARY STATEMENT

The opinion of the District Court (Charles H. Tenney, J.), entered on May 10, 1976, is reported at 415 F. Supp. 1155, and is reproduced in the Joint Appendix, Volume I, at pp. 70-127. The Court's judgment and order, entered on September 1, 1976, as amended by an order entered on October 14, 1976, is reproduced in the Joint Appendix, Volume I, at pp. 239-273.*/

*/ References in this brief to the record will be in the
(fn. cont.)

ISSUES PRESENTED

1. Whether the District Court erred in concluding that EEOC established a prima facie case of a pattern and practice of discrimination against minority*/ individuals in violation of Title VII of the Civil Rights Act of 1964, where the stipulated figures showed that minority admissions to Local 15 since the effective date of Title VII exceeded the percentage of minority individuals in the available labor force from which Local 15 draws its members.

2. Whether the District Court's conclusion that Local 15 had discriminated in its admission practices, recruitment and training programs, and referral procedures was erroneous.

3. Whether, assuming arguendo the finding of discrimination was not erroneous, the relief granted went substantially beyond that required to redress violations of Title VII and thus constituted an abuse of discretion.

STATEMENT OF THE CASE

This suit was brought by the United States, pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.,

(fn. cont.) following manner: (1) the Joint Appendix, Volume I which contains materials from the pleadings, will be cited as "App. I"; (2) the Joint Appendix, Volume II, which contains various exhibits and answers to interrogatories, will be cited as "App. II"; (3) the Exhibit Volumes I-V, which contain the entire trial transcript reproduced as an exhibit, pursuant to Rule 30(e), F.R.A.P., will be cited as "Ex. App." with the Volume number; (4) materials from the clerk's record transmitted to this Court but not included in the appendices will be cited as the "Record Index"; (5) exhibits not included in Joint Appendix, Volume II will be cited as "PX" or "DX" with the exhibit number; and (6) materials in the Addendum to this brief will be cited as "Add."

*/ The term "minority", as used herein, refers to black and Spanish-surnamed or Spanish language individuals.

alleging that Local 15, International Union of Operating Engineers, inter alia, had engaged in discriminatory employment practices toward minority individuals (App. I, pp. 10-11).*/ These discriminatory actions had occurred, according to the government, "from the effective date of that Act [Title VII] July 2, 1965, to the present", June 13, 1972 (App. II, pp. 514, 515).

The government's theory of the case was twofold. First, it sought to establish a prima facie statistical case by showing a disparity between (a) the percentage of minority individuals in the New York City work force, and (b) the percentage of minority members in Local 15 (See App. I, p. 53; Record Item 90, pp. 14-16, 18-22). In selecting its general work force statistics from a standard reference**/, the government limited itself to the figures for the five boroughs of New York City, notwithstanding the fact that nearly half of Local 15's members live outside the City (See PX 98, passim), and members of three of its five branches work outside the City. The selection of City figures had the effect of substantially inflating the minority percentage in the work force.

At the same time, in selecting the Local 15 membership statistics, the government did not consider the rate of admissions

*/ In addition to Local 15, the defendants included Local 14, I.U.O.E., and various contractor associations whose members employ operating engineers on their projects. These associational defendants were included for the purpose of relief only (App. I, pp. 11), and did not participate in the trial on liability. Prior to trial, and pursuant to amendments to the Act, the EEOC was substituted for the United States as plaintiff.

**/ United States Department of Commerce, General Social and Economic Characteristics, 1970 Census Population--New York, PX 1B. The Court can obviously take judicial notice of this document, but in order to make this easier, certain relevant pages are included as an Addendum to this brief.

"from the effective date" of Title VII to the date when suit was filed. Instead, it took the minority percentage in the Local in 1974, thereby including those non-minority members admitted long before the Act became effective. This served to reduce the minority membership percentage, and increase the disparity between it and the inflated work force figure.

Second, the government sought to explain the statistical difference as resulting from discriminatory actions of Local 15 in the areas of admission, recruitment and training, and job referrals (See, generally, Record Item 90). However, in most cases, the minority workmen who testified for the government, many of whom had long been Local 15 members^{*/}, stated that they had been offered training and substantial employment in the trade. Consequently, the District Court made no finding of discrimination involving any of the government's witnesses.

Following an extended trial, expressly limited to the issue of liability (App. I, p. 31), the District Court entered findings of fact and conclusions substantially identical to those submitted by the government (Compare Record Item 90 to App. I, pp. 70-127). The Court then solicited proposed orders (See App. I, p. 124), and after a very brief meeting with all counsel, signed the government's proposed order with but minor editing (App. I, pp. 239-271).^{**/}

^{*/} Seventeen minority employees testified for the government (See Ex. App. I, pp. 746-843, and Ex. App. II, pp. 844-1593). Eight of these individuals, Henlon, Joquin, McQueen, Pratt, Shorter, Stephenson, White and York, testified that they had been admitted to the union long before the trial.

^{**/} Large sections of the Court's opinion are taken

(fn. cont.)

The order prepared by the government imposed drastic sanctions upon Local 15, sanctions which are substantially in excess of, or unrelated to, the findings of discrimination. For example,

- (1) The Court established a racial admission quota*/ despite the absence of anything even remotely resembling the "egregious conduct" required by this Court for such quotas;
- (2) The Court instituted a mandatory common hiring hall with Local 14, despite the lack of any evidence that separately established referral halls had in any way served to discriminate;
- (3) The Court abolished the right of individuals to find their own jobs outside the union, and the right of employers to hire whomever they wish, even though 70% of Local 15's members find their own jobs and no finding of discrimination by employers was, or could have been, made;
- (4) The Court provided that whenever an employee has a break in service of three or more days, he may not return to that employer regardless of the length of time he has been employed, thereby destroying the seniority built up in most cases, despite the fact that such a drastic procedure was unnecessary to effectuate the policy of Title VII; and
- (5) The Court required extremely broad provisions for back pay, and the appointment of an administrator to run Local 15, despite the fact that these remedies are, in part, inconsistent with decisions of this Court.

These sanctions were imposed without benefit of the evidentiary hearing

(fn. cont.) verbatim from the government's proposed findings, and there are few, if any, conclusions not contained in the proposal. Moreover, in the case of the order, the fact that the Court merely signed what was submitted is even more apparent, because government counsel's initials, his typist's initials, or the office case file number are on almost every page of the order.

*/ The quota would require Local 15 to take in 3,000 minority members by 1981, assuming no white individuals were to join.

contemplated by all the parties (See App. I, pp. 202-203, 220, 278).

Local 15 filed its notice of appeal on September 30, 1976 (Record Item 126), and after the District Court denied its motion for a stay pending appeal (Record Item 118), renewed that motion in this Court. This Court denied the stay motion, but accelerated the briefing and argument of the appeal.

STATEMENT OF FACTS

1. Background of Local 15.

Local 15 of the International Union of Operating Engineers, AFL-CIO, is a union whose slightly more than 6000 members are employed in a variety of skilled construction and construction-related jobs (App. I, p. 76; Ex. App. I, pp. 20-22). These jobs, the record clearly indicates, require in almost every case either substantial formal training, or significant on-the-job experience (E.g., App. I, p. 86; Ex. App. I, p. 22, 699; Ex. App. II, p. 1403; Ex. App. IV, p. 3508). For organizational purposes, these jobs, and the individuals performing them, are divided into five branches of Local 15 (App. I, p. 76).

Parent Local 15 and Local 15A are comprised of those members who work for building contractors on outdoor construction sites. These individuals, constituting about one-half the union's membership, operate and maintain heavy construction equipment, such as bulldozers, backhoes, front-end loaders, and rollers (App. I, p. 99). The jurisdiction of these branches is confined to New York City (E.g., App. II, pp. 184, 209, 210); they are the only branches so limited.

Local 15B covers those persons employed in maintenance work

by the Port Authority of New York, and by various racetracks in New York State (App. I, pp. 76-77). Thus, Local 14B's jurisdiction extends beyond the city to Nassau County and Saratoga, New York (PX 48A-C).

Local 15C includes those members of the union who are employed as shop mechanics and helpers by construction equipment dealers who sell, lease and service equipment. The equipment maintenance is generally done indoors (App. I, p. 77). The jurisdiction of Local 15C extends beyond New York City to Long Island, Westchester County, Poughkeepsie, and Northern New Jersey (Ex. App. I, p. 350). In addition, since members of Local 15C work on the employer's premises (App. II, p. 316), they will be employed outside the City if the employer moves his business from the City.

Local 15D covers persons who work as surveyors, and surveyor's assistants, on construction sites throughout the New York metropolitan area, including Nassau, Suffolk and Westchester counties (App. II, pp. 341, 344). Of its approximately 1300 membership (App. I, p. 84), about 200 men are employed outside the City, including 50 men in Northern New Jersey (Ex. App. I, p. 371).

Although the majority of the members of Local 15's branches are employed within the City, this is not the case with regard to their residences. Members are drawn from and reside all over the greater New York metropolitan area, including parts of New Jersey and Connecticut (See PX 98). A random survey of Local 15's membership list, conducted by counting the residences of members listed on page 1 and each succeeding tenth page, reveals that about 50 per cent of the union members (257 of 543) live outside the City.

2. Employment in the Industry.

There are two important characteristics of employment for operating engineers which must be grasped if the industry is to be completely understood. First, the fact is that, as the District Court found (App. I, p. 90), the overwhelming majority of individuals in the industry find their own jobs, without obtaining employment through the union. Typically, an operating engineer obtains employment through a contractor working on his own (E.g., Ex. App. I, p. 55, 306, 310), and the most common route to union membership is to find employment in a shop where employees are required to join a union (E.g., Ex. App. I, pp. 70-73, 334).

This practice is reflected in the numerous collective bargaining agreements entered into by the branches of Local 15, and entered into the record here (App. II, pp. 121-444). A representative clause of these agreements provides:

that Employees are at liberty to work for whomsoever they see fit, * * *;

that Employers are at liberty to employ and discharge whomsoever they see fit, and the Employer shall at all times be the sole judge as to the work to be performed and whether such work performed by an Employee is, or is not, satisfactory * * *.

(App. II, p. 415). These clauses permit employers to hire either non-union or union employees, but engineers who are not members of the union are required to "become and remain members" of Local 15 within seven to thirty days after obtaining employment (E.g., App. II, pp. 123, 438; Ex. App. I, pp. 72-73).

In sum, contractors or employers are free to hire whomever they please from wherever they please, and operating engineers have a

correlative right to seek employment wherever they wish, a right exercised by some 708 percent of Local 15's members (Ex. App. I, p. 73). While contractors may look to the union as a source of new workers, they are not bound to do so, as the collective bargaining agreements illustrate. The record further reflects that contractors exercise their right to locate employees without union help (E.g., Ex. App. I, pp. 653, 680).

Second, the fact is that operating engineers have tended to work for one contractor for substantial periods of time, sometimes being carried through slack periods of working on maintaining the equipment in the off season (Ex. App. I, p. 55). So, despite the fact that the construction industry in New York operates on a seasonal basis--jobs start and stop with changes in the weather--many contractors tend to keep a permanent cadre of operators in their work forces.

These individuals may be laid off when a job shuts down or is completed, but when work starts again, the same individuals are called back by the employers. The basic reason for this is that the contractors want operating engineers who have worked for them previously, and who have demonstrated their competence on the costly and dangerous machinery (See App. I, pp. 276-277).

For the remaining thirty percent of the Local's members, those in Local 15 and 15A^{*/}, the union operates a non-exclusive

^{*/} The other branches do not operate through Local 15's referral service; employees are hired directly by employers (Ex. App. I, pp. 72, 88).

work referral system.*/ Members of the union and non-members, including individuals who are in the process of receiving training (E.g., Ex. Appl. II, pp. 852, 1169, 1429), are referred to contractors who may call the Local's referral hall (Ex. App. I, p. 92). These referrals are made on a completely non-discriminatory basis--"Everybody goes out on the same basis" (Ex. Appl. IV, p. 3394)--as the government's own witnesses testified (E.g., Ex. App. I, pp. 841, 1241) and the District Court found (App. I, pp. 90-91).

Contractors, or other employers, are not required to hire those individuals referred by the union (App. II, p. 463), and it has happened that those referred have been discharged by the employer when not able to operate the equipment (E.g., Ex. App. II, pp. 1594-1595). In any event, the referral system is not an important or substantial influence in hiring, because fewer than ten percent of the union members are employed by contractors who use the referral service regularly (App. II, p. 463).**/

3. Admission to Local 15.

The government introduced not one scintilla of evidence that there had been any discrimination in Local 15's admissions

*/ For a more comprehensive discussion of referral systems, see the brief amicus curiae on behalf of the International.

**/ This figure is taken from a government exhibit, PX 107C, which consists of Local 15's 1973 report to the EEOC. Although the government's complaint initially charged Local 15 with filing inaccurate reports (App. I, p. 11), it withdrew the charge prior to trial (App. I, p. 31).

between minority and non-minority individuals, or that different standards were applied. Each of the more than thirty minority individuals who testified for Local 15 stated emphatically that he had seen no discrimination in his years with the union. Moreover, there was unchallenged evidence that substantial numbers of minorities were admitted to the union in each of the three most common routes to Local 15 membership.

First, the most typical way for an individual to become a member of Local 15 is, as noted above, by coming under a collective bargaining agreement signed by his employer. A number of minority individuals came into the union in this way, after they had obtained employment on their own (Ex. App. III, pp. 3062, 3215, 3283, 3304; Ex. App. IV, p. 3381).

Second, when an individual graduates from the Local's training school (discussed below), he automatically becomes a member of the union. This is true regardless of whether he has a job or not (Ex. App. I, p. 318). It was in this way that one of the government's minority witnesses, Robert Pratt, obtained his union card.

Finally, union membership is granted whenever an individual has demonstrated to his employer that he is competent to operate the equipment involved in his particular job. Three of the government's minority witnesses joined the union this way (Ex. App. I, p. 868; Ex. App. II, pp. 953, 1460).

Indeed, Local 15's basic admission standard for all its branches has been a simple one. If a contractor or employer is

satisfied that a person it employs is qualified and competent, Local 15 will accept that person as a member of the appropriate branch (Ex. App. I, pp. 78, 89-91, 122-123, 279-283). Applying this obviously non-discriminatory standard during the ten years since Title VII has been effective, and even before then, Local 15 has never excluded minorities from its ranks.

a. The Statistical Profile.

The best illustration of Local 15's compliance with the non-discriminatory policy of Title VII is contained in the statistics reflecting the admission of minority members since the Act became effective in 1965. These figures reveal that the percentage of minority members admitted to Local 15's branches between 1966, the first full year after the Act, and June, 1972, when the lawsuit was filed, equalled more than 20 percent*:

[TABLE 1]

<u>Year</u>	<u>All Admit.</u>	<u>Minor. Admit.</u>	<u>% By Year</u>	<u>Cum. Admit.</u>	<u>Cum. Minor.</u>	<u>Cum. Perct.</u>
1966	50	13	26.0%	50	13	26.0%
1967	58	25	43.1%	108	38	35.2%
1968	141	34	24.1%	249	72	28.9%
1969	167	31	18.6%	416	103	24.8%
1970	239	38	15.9%	655	141	21.5%
1971	238	33	13.9%	893	174	19.5%
1972 (Jun)	45	18	40.0%	938	192	20.5%

*/ The figures for the annual admissions of all individuals, whites and minorities, are taken from the government's statistical attachment to the Pre-Trial Order (App. I, pp. 66, 68-69). The figures for minority admissions are compiled from PX 99, which lists all minority members admitted to Local 15 branches by date of admission.

Much the same pattern is reflected in determining the statistical percentage of blacks and Spanish-speaking admitted to Local 15 for the slightly later period, 1972-1974. The minority percentage then was again in excess of 20 percent*/:

[TABLE 2]

	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>Increase</u> <u>72-74</u>	<u>% Incr.</u> <u>Minor.</u>
Total Members	5661	--	6362	701	--
New Minor. Members	58	73	11	142	20.3%

The actual percentage of minority admissions was certainly higher, because the figures for those admissions are complete only through April, 1974 while the figures for all new members are complete through November 1, 1974 (Compare PX 99 with App. I, p. 85).

Finally, adding the figures from Table 1 on page 12 for the years 1966-1971, to the figures from Table 2, covering the years 1972-1974, gives the following results:

[TABLE 3]

	<u>Members Admitted</u>	<u>Minor. Admitted</u>	<u>Percent Minor.</u>
1966/ 1971	893	174	19.5%
1972/ 1974	701	142	20.3%
Total 1966/ 1974	1594	316	19.8%

*/ The figures for the total membership of the union are taken from the District Court's findings (App. I, p. 85). The figures for minority admissions are from PX 99.

Indeed, if the total of minorities admitted between 1966 and 1974 is increased by an appropriate figure representing probable minority admissions for the period May 1, 1974 to November 1, 1974 (when no minority admission statistics are in the record), then there would have been 335^{*/} minority individuals joining the union out of a total of 1594 new members. The percentage figure is 21.0 percent.

Summarizing these results in tabular form yields the following Table:

[TABLE 4]

Minority Admissions from First Full Year After Title VII to Lawsuit:	20.5%
Minority Admissions from Year of Lawsuit to Last Available:	20.3%
Minority Admissions from First Full Year After Title VII to Last Available (Unadjusted):	19.8%
Minority Admissions from First Full Year After Title VII to Last Available (Adjusted):	21.0%

The consistency of these figures demonstrate that Local 15 has been inducting minority members into its branches at a rate in excess of twenty percent of the total admissions since the date when Title VII went into effect.

b. Comparison to Minorities in Work Force.

The District Court correctly stated that the appropriate figure with which to compare the minority admissions to a labor

^{*/} The adjusted figure was calculated by dividing the number of minority admittees (316) by the months (100) during which they were admitted (January, 1966 through April, 1974), a monthly average of 3.16. This figure was then multiplied by the 6 months (May through October, 1974) to get a probable admittee total rounded to 19, and this figure was added to 316, to equal 335.

union, for purposes of Title VII, is the "minority percentage of the labor force * * * from which the industry draws employees" (App. I, p. 105). However, the District Court failed to properly define the relevant area from which Local 15 draws its members, since it limited its consideration to New York City's five boroughs.

However, given the fact that three of the five branches employ some workers outside the City proper, and given the more significant fact that Local 15 members live outside the City in appreciable numbers, it is indisputable that the area from which Local 15 draws its work force is the New York metropolitan area. The figures for this area, which are included in the Department of Commerce publication used by the government (PX 1B), reveal the following:

[TABLE 5]

Total Work Force Employed In Construction:	287,274*/
Blacks Employed In Construction:	28,276**/
Puerto Ricans Employed In Construction:	5,523***/
Total Minority Employed In Construction:	33,799
Percentage Minority Employed In Construction:	11.8%

This figure is substantially below the percentage of minority persons

*/ United States Department of Commerce, General Social and Economic Characteristics, 1970 Census Population--New York, PX 1B, Table 87, page 373 (Add. 1a).

**/ Ibid., Table 94, p. 419 (Add. 2a).

***/ Ibid., Table 100, p. 455 (Add. 3a).

employed in the construction industry through admission, in every year since 1966, to Local 15 and its branches.

This same general relationship holds true if one compares statistics based upon the entire work force in the New York metropolitan area, rather than just that portion employed in the construction industry. The Table shows:

[TABLE 6]

Total Civilian Labor Force, Male, 16 and Older:	4,134,432 ^{*/}
Total Civilian Labor Force, Black Male, 16 and Older:	485,082 ^{**/}
Total Civilian Labor Force, Puerto Rican Male, 16 and Older:	186,541 ^{***/}
Total Civilian Labor Force, Minority Male, 16 and Older:	671,623
Percentage Minority Male, 16 and Older:	16.2%

This percentage is likewise substantially below the minority admission figure for Local 15.

It is also appropriate to compare the percentage of minority individuals admitted to Local 15 since 1966 with the percentage of such individuals in other, comparable areas of activity. For example, the United States Army, which trains some 3,300 operating engineers annually, graduates about 20 percent minority individuals (App. I, p. 86). Another government agency, EPA, reported the following statistics for minority operating engineers working on

^{*/} Ibid., Table 85, p. 365 (Add. 4a).

^{**/} Ibid., Table 92, p. 403 (Add. 5a).

^{***/} Ibid., Table 98, p. 439 (Add. 6a).

EPA projects in 1973 and 1974*/:

[TABLE 7]

<u>Year</u>	<u>Total All Eng. Hours</u>	<u>Minority Eng. Hours</u>	<u>% Minority Eng. Hours</u>
1973	120,847	24,967	20.6%
1974	152,813	23,473	18.6%
1973/ 1974	273,660	53,440	19.5%

These figures are comparable to those of Local 15.

Combining these tables, to rank the various minority percentages in the several work forces, yields this comparative result:

[TABLE 8]

<u>Organization Involved</u>	<u>Period Covered</u>	<u>Minority Percentage</u>	<u>Table Source</u>
Local 15	Date of Title VII/ Latest Available (Adjusted)	21.0%	4
Local 15	Date of Title VII/ Date of Lawsuit	20.5%	1
Local 15	Post Lawsuit/ Latest Available	20.3%	2
U. S. Army	Annual Figure (Estimated)	20.0%	-
Local 15	Date of Title VII/ Latest Available (Unadjusted)	19.8%	3
EPA	1973-1974	19.5%	7
Minorities in Labor Force	1970 Census	16.2%	6
Minorities in Construction	1970 Census	11.8%	5

*/ App. II, p. 464. The figures are hours worked, rather than individuals employed.

It is clear, therefore, that far from a prima facie case of Local 15 discriminating, in fact the union exceeded--in some cases substantially--those groups with which it can fairly be compared in providing opportunities to minority individuals.

4. Local 15's Support of Minority Opportunity.

The comparatively high rate of minority entry into Local 15 has not been the result of happenstance. Since at least the middle 1960's, Local 15 has taken affirmative steps to encourage minority opportunity and increase its minority membership. A substantial portion of the minority membership of Local 15 came in through these programs.

a. Minority Recruitment and Training Program (RTP).

In 1967, Local 15 entered into an agreement with the Recruitment and Training Program (RTP), a Department of Labor-funded program designed to facilitate the entry of minority workers into the New York construction industry. Under the agreement, RTP recruited throughout the minority communities in and around New York City for persons with experience as equipment operators. These persons were referred to Local 15, and if they had the necessary proficiency of journeymen, they were admitted to membership (Ex. App. IV, pp. 3688-3691).

Local 15 was the only trade union in New York to pursue the RTP approach. Through it, some twelve to fifteen minority individuals became members of Local 15 in each year. While the District Court felt this was insubstantial, in fact it amounted to about 9 percent of the total union initiations between 1967 and 1971, and about half the minority initiations (Compare Table 1, supra, p. 12).

The Director of RTP testified that Local 15 fully met its obligations under the plan (Ex. App. IV, p. 3692). Moreover, he also serves as a source for any complaints about the union from RTP-placed individuals, and testified that the union officers consistently worked to remedy these (Ex. App. IV, p. 3693).

b. Local 15's School.

Late in 1970, Local 15 established a training program for any individual--in or out of the union--who desired to gain the skills necessary to work on the various equipment used in the trade.*/ While open to all, the Local 15 school was intended to serve as a vehicle for increasing minority opportunities. A substantial majority of those attending and graduating from the school are black or have Hispanic backgrounds (DX G), and--as noted above--graduation from the school qualifies an individual for membership in Local 15.

Training sessions, supervised by both black and white union members (App. I, p. 88), are conducted on Saturdays, so that the trainees can work on equipment they know during the week. For example, the government's witness Robert Pratt was referred to eight or nine jobs operating equipment during the time he attended the school to learn the backhoe (Ex. App. II, p. 1429).

Interested individuals sign up for the school and, when admitted, proceed at their own rate in accordance with their ability and desire. Some spend only a few weeks learning

*/ When the program began there were 5 or 6 pieces of equipment. By 1974 the number had increased to 19 (Ex. App. IV, p. 3578). One piece cost \$250,000 (Ex. App. I, p. 133).

the equipment (E.g., Ex. App. II, p. 1403), while others are there for several years (Ex. App. III, p. 3114). One thing is clear: there was absolutely no discrimination between whites and minorities at the school (App. I, p. 88).

c. The New York Plan.

In addition to its own training program, Local 15 became signatory to what is commonly referred to as the "New York Plan". This was an agreement between contractors and construction owners in New York City, representatives of the minority community, the city of New York, and the U. S. Department of Labor--to establish affirmative action programs to bring greater numbers of minorities into building trades industry.

The initial goal for placement of New York Plan trainees in the operating engineers trade was 98. From the plan's implementation in the spring of 1971 to 1974, Local 15 had cooperated in placing a total of 170 trainees, thus substantially exceeding the goal set for its trade (DX H). In addition, those trainees who were not getting adequate on-the-job training were enrolled by Local 15 in its own training program.

d. Minority Members.

Statistics and affirmative action programs aside, the most telling demonstration of Local 15's non-discriminatory practices was evidenced by the trial testimony of some of its black and Puerto Rican members. Twenty-nine of them testified on behalf of Local 15; each explained that he had never been discriminated against in any way by the union. Representative samples of their

testimony illustrate the practical application of the points described above.

Arthur Smith is black and has been a member of Local 15 for thirteen years. Since joining Local 15, he has worked steadily as an equipment operator; on a few occasions when he has been out of work, he has used the union's "day room" and has been referred to jobs. It has been his experience that both black and white members of Local 15 receive the same treatment by the union (Ex. App. III, p. 3045-3056) (See also the testimony of John Philips; Vivan Palomino; Fitzroy Danvers.)

Charles J. Lebron is Puerto Rican and has been a member of Local 15 since 1952. He first joined Local 15 when he was working as a shop mechanic repairing equipment, where he learned how to operate the machines. In 1960 he transferred his membership to Local 15, and since that time has been working "outside" as an operator on various types of equipment; when out of work he has used the "day room". In his experience, blacks, Puerto Ricans, and whites are treated on the same basis (Ex. App. III, p. 3061-3065) (See also testimony of Leo Latty; William Vance; Walter Drakes; Anthony Young; Kenneth Vaughn; Rufus Brewington.)

Ralph Jones is black and has been a member of Local 15 since 1951. At that time he transferred into Local 15 from another operating engineers' local in New York. Since that time he has worked steadily within Local 15's jurisdiction (Ex. App. IV, p. 3356-3359) (See also testimony of Joseph Brown.)

John Williams is black and joined Local 15 in 1970. Prior to that time he had worked in tunnels operating equipment under

the jurisdiction of "Sandhogs" Local 147. In order to increase his earnings he went to Local 15, was referred to employment, and became a member. Since that time he has worked steadily and has seen no discriminatory treatment of blacks by Local 15 (Ex. App. III, 3096-3099).

Walter Scott is black. He came to New York from Jamaica, where he had had experience as an equipment operator running dozers, scrapers, and loaders. Scott first contacted Local 15 in June of 1972, and was referred to a number of jobs. When one of these jobs--operating a front-end loader--ended, his employer wanted to shift him to a backhoe, but Scott did not know how to operate it. He went to Local 15's training school for four months; learned to operate a backhoe; and during that time was referred to jobs he could do. He became a union member in November 1972 and has been steadily employed (Ex. App. IV. p. 3654-3657) (See testimony of Keith Watson; Claudius Johnson.)

Israel Galarza is Puerto Rican. He attended a Job Corps training center in Tennessee, where he spent one year learning to operate equipment, and in April 1970 he came to New York and sought work through Local 15. Galarza was referred to various jobs--some of which he could perform, others of which, as it turned out, he could not. In early 1971, recognizing his need for further training, he enrolled in Local 15's training program. He graduated from it in 17 months. All during this time Galarza was referred to jobs that he could do and in the process he earned a comfortable living. In 1972 Galarza became a member of Local 15 (Ex. App. III, p. 3621-3630) (See also testimony of Dale Ford; Hector Chambers.)

ARGUMENT

Introduction and Summary

It is important to stress at the outset that Local 15 does not bring to this Court a building trades discrimination case of the sort so often presented. Unlike United States v. Lathers Local 46, 471 F.2d 408 (2nd Cir. 1973); Rios v. Steamfitters Local 638, 501 F.2d 622 (2nd Cir. 1974); and EOC v. Local 638, 532 F.2d 821 (2nd Cir. 1976), where the records repeatedly demonstrated substantial efforts to bar union membership and work opportunities to minorities, Local 15's efforts to encourage minority membership in its ranks have resulted in what is almost certainly one of the highest minority entry rates since the passage of Title VII of the Civil Rights Act of 1964.

As a result, the EEOC's own evidence introduced below demonstrates that more than 20% of all members entering the union since the effective date of Title VII have been minority. This figure, as we show below in Point I, exceeds substantially the percentage of minority persons in the work force from which Local 15 draws its members.

Nevertheless, the trial court concluded that Local 15 had engaged and was engaged in a pattern and practice of discrimination. It did so by focusing on statistical data on total membership, rather than members admitted since the effective date of Title VII, and by comparing that data with minority representation in the work force residing in New York City, rather than with such representation in the metropolitan area. In doing so, the

court seriously and erroneously distorted its analysis of Local 15's response to the Act.

Thereafter, as we demonstrate below in Point II, the court's "findings" of discrimination consist chiefly of inferences and conclusions which are totally devoid of record support. Indeed, the record contradicts them.

In Point III we turn to the injunctive relief ordered by the court. Assuming, for the purposes of argument, that the finding of discrimination was supported by the record, the relief ordered goes far beyond that necessary to redress any discriminatory practices. In mandating such relief the court seriously abused its discretion in at least the following ways.

First, and most importantly, the court radically changed the way in which union members and others obtain employment in the trade. The seventy to eighty percent of the work force that secured employment directly from contractors now, without exception, must use the union's work referral system. Similarly, those individuals who have built up employment rights over the years with various contractors have been stripped of those rights.

Under the order, any break of more than three days in a person's employment, even if because of bad weather, means that that person's employment relation with his employer is permanently severed. The employer cannot call him back to work, and the individual must go to Local 15 and await referral to another job. Draconian relief of this type was ordered in the face of the court's own finding that there was "no credible evidence of deliberate discrimination in the [work] referral procedures" (App. I, pp. 90-91).

Second, the lower court mandated that Local 15 achieve a 36 percent minority membership quota in complete disregard of the limitations in Title VII, and in contravention of this Court's guidelines in EEOC v. Local 638, supra.

Third, the court ordered a broad back-pay procedure under which minorities, who did not even seek union membership or work referral, are entitled to back pay. Such an approach has been specifically disapproved by this Court. EEOC v. Steamfitters, ____ F.2d ____, 13 FEP 705, 712 (2nd Cir. 1976).

Finally, the court ordered an Administrator to run the day-to-day affairs of Local 15, in derogation of Congress' intent that the internal affairs of unions not be interfered with except to correct discriminatory practices.

We recognize that, were this the typical case, the standard of review for this Court would be narrow. The Court would be bound to accept findings of fact made by a trial court unless such findings were "clearly erroneous". Similarly, with respect to injunctive relief, a lower court's order would not be set aside unless it constituted a clear abuse of discretion.

However, in this case, the scope of review is somewhat broader, because the lower court's findings and order are not entitled to the weight that normally would be accorded them. This is because they were not the considered work product of the district judge. The trial court's "findings" were almost mechanically adopted from those submitted by EEOC; similarly, the detailed injunction issued was verbatim that submitted by EEOC. In such circumstances, those findings are not entitled to their customary

deference. United States v. Forness, 125 F.2d 928, 942 (2nd Cir. 1942); See United States v. El Paso Gas Co., 376 U.S. 651, 656-657 (1964). For the

reviewing court can confidently apply the "clearly erroneous" standard only when the written findings of fact are substantially the work product of the district judge himself.

Schwerman Trucking Co. v. Gartland Steamship Co., 496 F.2d 466, 478 (7th Cir. 1974) (Swygert, Ch. J., concurring).

Careful review of this record, we believe, will demonstrate that the judgement cannot stand, under any standard of review.

I. THE DISTRICT COURT ERRONEOUSLY CONCLUDED THAT EEOC ESTABLISHED A PRIMA FACIE CASE OF EMPLOYMENT DISCRIMINATION BY DEMONSTRATING A STATISTICAL IMBALANCE BETWEEN THE MINORITY PERCENTAGE IN LOCAL 15 AND THE MINORITY PERCENTAGE IN THE WORK FORCE RESIDING IN NEW YORK CITY.

The lower court's major conclusion was that Local 15 had engaged and was engaged in a "pattern and practice" of discrimination against blacks and Spanish sur-named persons in violation of Title VII (App. I, p. 124).*/

In reaching this result the court relied principally on the statistical imbalance, existing at the time of the trial, between the minority representation in the membership ranks of Local 15 and the minority representation in the work force residing in New York city. Thus the court stated that:

*/ The term "pattern and practice", as used in Section 707 of Title VII, has been construed to mean acts of discrimination that are not isolated, peculiar, or accidental events. That is, the acts must be repeated, routine, or of a generalized nature. United States v. Ironworkers Local 86, 443 F.2d 455, 552 (9th Cir. 1971).

Local 15's membership in 1974 was only 6.5% minority (415 out of 6,362 members) * * * *. The minority percentage of the New York City male labor force is 30.85% and the minority percentage of such force 16 years of age and over who have a high school education or less is 36.39% (App. I, pp. 85-86).

This enormous disparity establishes a *prima facie* case of a pattern and practice of discrimination in violation of the Civil Rights Act of 1964.

(App. I, P. 104).

At the outset, we concede, that under the law the showing of a statistical imbalance between (1) minority representation in an employer's work force or a union's membership and (2) minority representation in the population from which an employer draws its work force or a union its membership, raises an inference that the imbalance is a result of discrimination, and shifts the burden of going forward to the employer or union. See e.g. United States v. Ironworkers Local 86, *supra*, at 551. However, in this case the court erroneously applied the concept by using inappropriate statistical variables.

A. The District Court Used Inappropriate Membership Statistics

With respect to the first variable--minority representation in Local 15's membership--the court looked to a static point in time. It chose current membership statistics as of the time of trial which showed 6.5% minority representation. That meant a consideration of all then-active members admitted at any time since the union was chartered in 1937.

Thus, of the approximate 6,000 members at the time of the

trial, 5,000 had been admitted at various times in the 30 years preceding July 2, 1965. After the effective date of Title VII and up to July, 1972 (the filing date of the lawsuit) approximately 1,000 members were admitted to the union. (PX 98) But, the practices of the union for the forty or so years preceding the lawsuit were not the subject of litigation. Rather, the suit was concerned with the acts and practices of Local 15 effected by Title VII.*/

Accordingly, the Court should have utilized the statistics relating to those who became union members after July 2, 1965 in order to begin an examination of Local 15's compliance with Title VII. They show that 20% of the members who joined Local 15 subsequent to the Act were minority.

The reason for this approach is quite simple. Title VII is prospective in its application. It does not make unlawful practices which may have existed before its enactment. A fortiori it provides no remedy for such practices.

A recent decision illustrates the point. In Patterson v. American Tobacco, 535 F.2d 257 (4th Cir. 1976), the defendant company was charged with numerous racially and sexually discriminatory employment practices. With respect to filling supervisory vacancies, statistics showed few appointments, if any, of blacks or women prior to Title VII's advent.

*/ In response to any interrogatory propounded by Local 15 to EEOC, which sought to ascertain the time period for which it was claimed that the union excluded minorities from its membership in violation of Title VII, EEOC responded that the period of time is "from the effective date of that Act, July 2, 1965, to the present" (App. Vol. II, P. 514.)

However, beginning in 1965, substantial numbers of blacks and women were given such appointments. In fact, their numbers exceeded the ratio of qualified blacks and women in the work force from which the company drew its employees. The company contended that it should be judged by how it filled vacancies after the Act and not how it filled them before it. The court of appeals agreed with that contention and declined to impose any quota, in favor of blacks and women, on the filling of vacancies. Id. at 274-5.

This result is in a direct line with relevant portions of the legislative history of the Act. These state that Title VII is:

... prospective and not retrospective. Thus, for example, if a business has been discriminating in the past and as a result has an all-white working force, when the title comes into effect the employer's obligation would be simply to fill future vacancies on a nondiscriminatory basis. He would not be obliged -- or indeed, permitted -- to fire whites in order to hire Negroes, or to prefer Negroes for future vacancies, or, once Negroes are hired, to give them special seniority rights at the expense of the white workers hired earlier.

EEOC, Legislative History of Titles VII and XI of the Civil Rights Act of 1964, p. 3043 [hereinafter, "Leg. Hist."].

Applying this principal of Title VII's prospective application to the facts in this case, the lower court should have used Local 15's 20% minority admission as the first statistical variable in determining whether EEOC established a prima facie case. The Tables contained above, pp. 12-18, demonstrate that Local 15 took in one-fifth of its membership as minority in all relevant time-periods after Title VII's effective date.

B. The District Court Used Inappropriate Work Force Statistics.

The trial court compounded its initial error by comparing the minority membership in Local 15 with the minority percentage of the male labor force over the age of 16 residing in New York City.*/ Use of that figure as the second statistical variable was erroneous for two reasons. First, Local 15's membership was not drawn exclusively from New York City residents. Second, the membership was not drawn from a male labor force at large without regard to the construction skills or experience of those in the labor force.

While the geographical or work jurisdiction of Local 15 is the City of New York, the record unequivocally shows that members of Local 15 are drawn from all over the greater New York area, including New Jersey. Thus, the Local 15 membership list demonstrated that about half of the members reside outside the five counties of New York (PX-98). There is no record support, and indeed the court cites none, for its finding that the "available labor pool for operating engineers in the New York City area today, as well as in the past, consists of males living in the union's jurisdiction."
(App. I, p. 85)**/

*/ The Court, uncritically adopting statistics prepared by an untrained college student found this to be 36.39 percent.

**/ This is but one example of the court's mechanical adoption of EEOC's proposed findings. Compare Record Item, p. 18 with Finding 20, App. I, p. 85. Like the court, EEOC cited no record support for its proposed finding. Even as a matter of simple logic, the court's "assumption" fails. To conclude that union members reside in the city because Local 15's work jurisdiction is limited generally to the city would mandate, in terms of logical analysis, a conclusion that everyone who works in New York lives in New York. That, obviously, is not true.

Though this Court has not directly addressed the issue, other courts of appeal are unanimous in their recognition that a given metropolitan area is the most reliable statistical reference point as opposed to the center city within such an area. See United States v. Elevator Constructors Local 5, 538 F.2d 1012, 1015-16 (3rd Cir. 1976); United States v. Hazelwood School District, 534 F.2d 805, 811 fn. 7 (8th Cir. 1976); Taylor v. Safeway Stores, 524 F.2d 263, 272 (10th Cir. 1975); United States v. TIME-DC, 517 F.2d 299 (5th Cir. 1975), cert. granted, 96 S.Ct. 2200; Patterson v. American Tobacco, supra.

The geographical area aside, it was also erroneous to consider the male labor force over the age of 16, without regard to the construction skills of those in the labor force. It is clear that every male in the labor force is not capable and qualified to operate or maintain construction equipment^{*/}, nor has the skills to perform the work of the other construction related jobs within Local 15's jurisdiction. Indeed, the record is replete with testimony as to the skill and qualifications of operating engineers.

Moreover, the court did have before it census data on the minority percentage of the labor force in the construction industry. Yet it chose to ignore it.

The court's error in this regard is again confirmed by Patterson v. American Tobacco, supra. There the Fourth Circuit

^{*/} Indeed, some trained individuals were unable to do so (E.g., Ex. App. II, p. 1403).

held that, in the context of supervisory positions, the percentage of blacks and women in the Richmond metropolitan area supervisory work force was a more realistic measure of the defendant company's conduct than the gross percentage of blacks and women in the whole work force, including unskilled labor. 535 F.2d at 275.

Similarly, in Hester v. Southern Railway, 497 F.2d 1374 (5th Cir. 1974), the Court of Appeals for the Fifth Circuit concluded that "comparison with general population statistics is of questionable value when we are considering positions [data typists] for which, as here, the general population is not presumptively qualified." Id. at 1379, fn. 6. See also Chance v. Board of Examiners, 330 F. Supp. 203, 214 (S.D.N.Y. 1971), aff'd 458 F.2d 1167 (2nd Cir. 1972) ("We are here dealing with candidates who must meet preliminary eligibility requirements as to . . . experience that are not possessed by most of the general population").

Applying the proper statistical variable, based on the census data available to the court, the minority percentage of males in the construction industry residing in the New York metropolitan area was 11.8%. See above, p. 15, Table 5. Considering the labor force as a whole, the minority representation rises to 16.2 percent. See above p. 16, Table 6.

C. Use of the Proper Statistical Variables Negates the Finding of a Prima Facie Case of Discrimination.

In using the minority percentage of Local 15's total membership at the time of trial the court seriously understated the union's compliance with the Act. In addition, by relying on work force statistics limited to residents of New York city, and without regard to construction skills, the court grossly overstated

the minority representation in the labor pool from which Local 15 draws its members.

Applying the two proper statistical reference points:

(1) the 20% membership admission rate of minorities after July 2, 1965 and (2) the 12% minority representation in the construction industry residing in the greater New York area (or even the 16% minority representation in the work force as a whole) the trial court's conclusion that EEOC had established a prima facie case is totally negated. Simply stated, Local 15 was admitting more minorities, proportionately speaking, than their representation in the relevant population. See above. p. 17, Table 8.

II. THE DISTRICT COURT'S CONCLUSION THAT LOCAL 15 DISCRIMINATED IN ITS ADMISSION TESTS, RECRUITMENT AND TRAINING PROGRAMS, AND WORK REFERRAL PROCEDURES WAS ERRONEOUS.

The District Court purported to make findings in three general areas--admission tests, recruitment and training, and work referral procedures--to support its conclusion that Local 15 had engaged in a pattern and practice of discrimination. Significantly, the court found no intentional discrimination on the part of Local 15. It held that such a determination was not necessary in order to find the practices of Local 15 unlawful. Rather the standard for its analysis was the notion that employment practices violated Title VII, if in operation the practices excluded minorities and were not justified by business necessity (App. I, pp. 106-08.)

As an abstract proposition of law we do not quarrel here with that approach. However, as we demonstrate below, there is

no record support for any findings that Local 15's practices excluded minorities, intentionally or otherwise.

A. Local 15's Admission Tests Did Not Exclude Minorities.

We set forth in our Statement of Facts the ways in which individuals are admitted into membership in Local 15 (Brief at 11-12). The most common way is for an individual to become employed by a contractor or employer who has a collective bargaining agreement with Local 15. If his employer considers him qualified he becomes a member of Local 15 in accordance with the union security clause in the relevant bargaining agreement. Since 70 to 80% of those working under the jurisdiction of Local 15 and 15A are hired directly by contractors, as are virtually all of those working under the jurisdiction of 15B, 15C, and 15D, the union really has little to do with determining who becomes a member. No admission tests of any sort are required of these people.

However, beginning in about early 1971 when Local 15 established its training school the union began to test all individuals who did not obtain membership in the above described manner. Generally speaking this meant those who were seeking work as equipment operators through the union referral hall. Such individuals, both minority and non-minority, who claimed to be skilled operators were sent to the union's school for a practical demonstration of their ability to operate machinery. If they passed the test they could join the union, even though they were unemployed (Ex. App. III, pp. 3663-65.) If they failed they were given the opportunity to enrol in the training school and upon graduation would automatically become a member. They could also continue

to seek work referral even though they had failed the test.*/

The District Court viewed the creation of this additional way of obtaining membership as a discriminatory raising of standards. This was erroneous for two reasons.

First, the testing procedure was not the only route to union membership. The traditional ways, such as proving ones abilities to a contractor-employer, were still open. Moreover, the testing of an operator's ability did not apply to those seeking membership in Local 15B, 15C, or 15D since those branches did not include operators of construction equipment.

Second, even if testing were the only way of entry into the union its institution in 1971 would not be discriminatory in this case since, there was no showing of discriminatory membership practices before 1971. As we demonstrated in Point I, above, quite the contrary was true. Between 1966 and 1971 the union was admitting minorities at a rate substantially in excess of the representation in the relevant labor force.

As additional support for its conclusion in the disparate effects of testing, the court stated that almost all whites admitted to Local 15 since the training school began had not taken the test and inferred that most minorities had. Thus, it found that between December, 1970 and November, 1974 the white membership increased by 693, yet only 20 whites graduated from the

*/ The court's finding that the "consequences of failing the test are generally to not be referred for work by the union" is directly contradicted by the record (App. I, p. 110.) One of the government's chief minority witnesses failed the test but was referred to many jobs by the union (Ex. App. I, pp. 838-40.)

school (App. I, p. 111.) But this is a classical non sequitor. The fact that 673 whites become members without graduating from the training school is not to say that they did not take the test. Stated quite simply, there is no evidence at all as to how many people took the test, since taking the test is not the same as enrolling the school.

Even if that were true it would not support the court's point since it would mean only that a majority of white members and a majority of new minority members (approximately 142 out of 175) were admitted without testing (App. I, pp. 87-88; 111.)

B. Local 15's Recruitment and Training Practices Did Not Discriminate Against Minorities.

We agree with the lower court's finding that operating engineers in New York historically have learned their trade from on-the-job experience and have relied on friends and relatives for training or the opportunity for training (App. I, pp. 86-87.) We also agree that until December 1970, when Local 15's training school was established, the union had no formal training program for those wishing to enter the trade (App. I, p. 87.) (Regarding this school the court found that "there is no discrimination as between whites and minorities attending the school; in fact, three of the six instructors are non-white" App. I, p. 88.)

However, a basic difference must be recognized between the two situations. Both are not training programs established and administered by Local 15. The formal school program certainly is and Local 15 is responsible for insuring that it is run in a non-discriminatory manner. (The court found that it fulfilled this obligation).

But the practice, whereby individuals on their own learn to operate by getting on a piece of an employer's equipment at lunchtime or where those same individuals are taught to operate by their fathers or friends, cannot be called a training program. Certainly Local 15 has no role in it. It is a contractors prerogative to allow an employee to practice in his spare time and a father's indulgence to teach his son. But those are matters over which Local 15 has no control.

The court did not recognize this for it held that Local 15 was responsible for the historic way in which men learned to operate equipment (App. I, pp. 108-09.)

Even if that were appropriate there is absolutely no record support that the practice denied minorities training opportunities. Quite the contrary, virtually all the witnesses (including at least 15 minority ones for the government and at least 25 minority ones for Local 15) testified that they learned through the informal method (Ex. App. II, p. 3046; 3203; 3252-54; Ex. App. IV, p. 3376.)

C. Local 15's Work Referral System Was Not Discriminatory.

In our Statement of Facts we described the work referral system. (Brief at 9-10). Briefly, individuals seeking work go to the union's "day room" and wait to be sent to contractors who call in for workers.

Regarding this operation, the trial court found "no credible evidence of deliberate discrimination." It found further that there was "no competent evidence that minority non-union men have been discriminated against on a job to which they have been referred by Local 15" (App. I, pp. 90-91; 96.) Yet as part of its finding of a "pattern and practice of discrimination" the court said that "it appears that minorities are referred less frequently and wait for longer no matter what the employment conditions are" (App. I, p. 113.)

That statement is not only without record support, it is directly contradicted by the testimony of at least twenty-eight Local 15 members who are either black or Puerto Rican. (See Brief at 20-22). All of them testified that they evidenced no discrimination in the work referral system. A number of them specifically testified that they had been referred out to work ahead of whites on many occasions; that they did not have to wait around long for referrals; and that many of the jobs they were referred to lasted substantial periods of time (Ex. App. III, pp. 3084-90; 3226-27; 3246; 3257-58.)

III. THE RELIEF GRANTED BY THE DISTRICT COURT SUBSTANTIALLY EXCEEDED THAT NECESSARY TO REDRESS ANY VIOLATIONS OF THE ACT, AND THUS CONSTITUTED AN ABUSE OF DISCRETION.

Introduction.

Before turning to the serious deficiencies in the District Court's overbroad remedial order, two preliminary considerations, which in large part may account for the order, require discussion. Taken together, we believe, they may warrant a remand to the District Court even before coming to the substantive errors contained in the order.

First, it cannot seriously be contended that the trial judge made any serious contribution to the provisions of the order. Except for the most minor of editorial touches, the Court signed the order presented by the government, with the Assistant United States Attorney's initials on most of the pages. The parties here are appealing from what is entirely Mr. Devorkin's, not Judge Tenney's, view of the case.

This is surely the reason why the relief granted, in words used before by this Court, is "not supported by the evidence and not substantially in accord with the opinion." United States v. Forness, supra, 125 F. 2d at 941. Both this Court and the litigants are entitled to an order carefully considered by the trial court, and a remand for that purpose seems most appropriate.

Second, as set forth at length in the briefs filed by Allied and the GCA, the order was not enlightened by the expected hearing on remedy. As is common in Title VII cases, the trial court bifurcated the trial, hearing evidence on the issue of liability alone, and thus having only some of the parties before it.

But the Court never conducted any factual inquiry into the proposed relief, thereby depriving the parties (and itself) of the kind of comprehensive understanding of the impact the order would have that is so plainly lacking here.

One cannot realistically argue that the few hour meeting between counsel, before the trial judge on July 26, 1976, constituted an evidentiary hearing. Surely, a case that took three weeks to try on liability warrants more than a passing glance at the injunctive order which follows.*/ It seems most unlikely that the Court would have so disrupted the industry if it had been exposed to some of the practical problems exposed in all the appellants' briefs.

This is particularly true because the trial court pre-terminated any discussion other than a review of the government's order, which was to serve as the sole focus of consideration (App. I, pp. 130-131). So the parties not only got little time but little consideration.

Rather than exploring all the factual ramifications of the order in this Court, which lacks the capacity to explore such issues as the impact upon minority workmen themselves of the three-day-off-and-out rule, it would be desirable to vacate the judgment and order**/ and remand the case.

But if this Court wishes to explore the manifold deficiencies of the order, principal consideration should be given to three

^{*/} While the government has argued, in its stay motion, that the trial on liability served to ventilate factual matters underlying the order, several important matters were not touched on at trial. Most obviously, the practical impossibility of operating a joint hiring hall; the impact if workmen lose their jobs after a three-day layoff; and other similar matters were not brought up.

^{**/} Assuming, arguendo, that the order has not been reversed.

general areas in which the relief granted either (1) conflicts with Title VII or decisions of this Court; or (2) imposes harsh and unnecessary sanctions far out of line with any possible finding of discrimination; or (3) disserves other public policies equally worthy of support along with the goals of Title VII.

A. The Order's Provisions Conflict with Title VII and Decisions of this Court.

1. The Minority Admission Quota.

We have previously discussed the plain error committed by the District Court in its use of improperly selected statistics to establish a prima facie case of discrimination against Local 15. In its order, the Court applied the minority labor force percentage for New York City, 36.39%, to Local 15's membership, requiring that by 1981 the union have a minority percentage of 36 percent. This portion of the order cannot stand for several independent reasons.

First, affirmative racial preference quotas are precluded by section 703 of Title VII, 42 U.S.C. 2000e-2(j). Section 703 declares that no labor organization shall be required to endure such quotas because of statistical differences with any community population. However, since this Court has permitted such quotas under sharply limited circumstances, we merely wish to preserve the issue.

Second, the only circumstances under which such quotas as those imposed by the trial court can be sustained involve those situations where the defendant has engaged in a "clear cut pattern of long-continued and egregious racial discrimination." Kirkland v. New York State Department of Correctional Services, 520 F. 2d 420, 427 (2d Cir. 1975). It cannot seriously be contended that

such a pattern exists here; the government's case was little more than statistics and inference. Moreover, the record showed that, through the participation in the RTP and New York Plan, Local 15 acted affirmatively to overcome any inadvertant activities that might arguably serve to discriminate.

Third, even if quotas are justified here, the percentage is inaccurate. In Rios v. Local 638, 501 F. 2d 622 (2d Cir. 1974), where the court imposed a 29 percent goal for substantially this same area, this Court vacated the order for further consideration of an appropriate percentage. It required that the district court "be guided by the most precise standards and statistics available" and determine the percentage "with the utmost of care". 501 F. 2d at 633.

If that is done here, as our statistics show, a membership level no higher than 11.8% (see Table 5, supra) is required. This is the percentage of minority workmen in the construction industry in the New York metropolitan area from which Local 15 draws its members.

Moreover, the trial court's goal is utterly unrealistic, and appears incapable of being met. To do so, Local 15 would have to close its doors to whites through 1981, while adding an additional 3000 minorities to its present total membership of about 6000. With work hardly abundant, it would be foolish to require such growth in the union.

2. The Back Pay Provisions.

The District Court's broad back-pay order suffers from any number of infirmities. Among other things, it appears to require the

Local unions to absorb all the back-pay awards, despite the fact that most of the individuals hired make no use of the union or its referral service. This issue should be explored on remand.

We focus here, however, principally upon that portion of the order permitting minority individuals to recover back pay in circumstances where they did not (1) seek union membership, or (2) ask for work referrals. Subsequent to the District Court's order, this Court invalidated any such approach in EEOC v. Steamfitters, F.2d , 13 FEP 705, 712 (1976).

Steamfitters, F.2d , 13 FEP 705, 712 (1976).

B. The Order Imposes Harsh and Unnecessary Sanctions

Local 15's objections to the order are most strongly directed to the system of work referrals imposed as a mandatory condition of employment in the operating engineer field in the City of New York. Even granting the District Court's broad equitable powers, the complete restructuring of employment relationships cannot possibly be sustained.

Section 706(g) of Title VII, 42 U.S.C. §2000e-5(g), grants broad, equitable power to a court in order to redress violations of Title VII that are found to exist. However, in enacting Title VII, Congress intended that remedial orders under that section be tailored to the violations found.*/ It particularly wanted to avoid intrusions into the affairs of employers and unions, except to the extent required to correct discriminatory practices.**/

*/ For a comprehensive discussion of the principles underlying Title VII relief, see the brief amicus curiae for the International Union of Operating Engineers. There is little point in repeating or paraphrasing that discussion, which we adopt.

**/ Leg. Hist., supra, p. 2150.

After the passage of Title VII, the appellate courts have many times reiterated that principal in a wide variety of cases in which they have been called upon to rule on the propriety of relief. See, e.g., Chance v. Board of Examiners, 534 F.2d 993, 998 (2nd Cir. 1976); Acha v. Beane, 531 F.2d 648, 654-55 (2nd Cir. 1976); Nance v. Union Carbide Corp., 540 F.2d 718 (4th Cir. 1976); Patterson v. American Tobacco, supra, at 265.

Yet, in this case, the trial court disregarded the principal that the remedy must fit the violation. It ordered radical changes in the employment relationship existing between operating engineers and contractors, despite the fact that there was not one scintilla of evidence to warrant the relief. Specifically, the court found no deliberate discrimination in the referral of men to jobs by Local 15. It did find that there was subjectivity involved in the union's judging of a given individual's qualifications, and that there was no set order in which men were referred to work. From that the court concluded that the process operated to the disadvantage of minorities.*/

The court then proceeded to exceed any reasonable solution. Instead of limiting relief to implementation of objective standards for ascertaining a man's qualifications, and establishing an orderly system for work referral, it, in addition, did the following:

*/ We leave aside at this point the fact that there was absolutely no record of support for this conclusion. Regardless, a remedy tailored to the particular problem was certainly available. See United States v. Local 638, Steamfitters, 347 F. Supp. 169, 184-185 (S.D.N.Y. 1972).

(1) It merged the work jurisdictions of Local 14 and Local 15 which, for the 40 years since their formations, had always been separate.

(2) It established a rigid hiring hall which would be common to both Locals and forced all operators to use it, even though only 30% of the membership traditionally did so.

(3) It abolished an individual's right to go out and look for his own job with contractors. In lieu thereof, each person seeking work was required to sit each day in the union hall and wait for referrals to a job.

(4) It abolished the right of an employer to hire an operator who had previously worked for that employer, as well as the employer's right to lay off and recall any given man unless the lay-off was for less than three days.

(App. I, pp. 92-93, 95). Not one of these widespread changes can be justified as necessary to remedy the "discrimination" that the court found.

The fact that all individuals long employed by one contractor or employer will, if layed off for three days, loose their position with little if any possibility of regaining it, is particularly difficult to understand. Surely such a requirement places the burden of "bumping" upon a particular, identifiable individual, in violation of this Court's decision in Kirkland, supra. As Local 15 argued in its stay motion, this part of the order should be set aside immediately.

C. The Order Disserves Public Policies Entitled to Equal Weight with Title VII.

This Court, in Title VII cases, has recognized that the appointment of an administrator to conduct union affairs strongly impinges upon the union self-government that lies at the heart of our national labor policy. Accordingly, such appointments have

usually been sanctioned only where there is a reasonable basis, in demonstrated union recalcitrance, to believe that the Court's order will not be carried out. See EEOC v. Local 638, supra. There is nothing in the record to support any such finding, and therefore the portion of the order appointing the administrator should be set aside.

Furthermore, as has already been observed, the order entered here is extremely detailed, establishing a variety of safeguards to insure that the court's purposes are carried out. These built-in protections further reduce the need for an administrator, certainly until the unions show they cannot carry out the order, if affirmed.

CONCLUSION

For the foregoing reasons, the judgment of the District Court should be reversed, and the case remanded to the District Court for entry of an order of dismissal.

Respectfully submitted,

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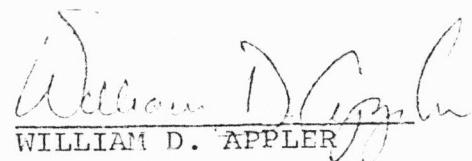
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CERTIFICATE OF SERVICE

I hereby certify that copy of the brief for Appellate
Local 15 was mailed, postage prepaid, to counsel for all the parties
this 19 th day of November, 1976.


WILLIAM D. APPLER

ADDENDUM

UNITED STATES
DEPARTMENT OF
COMMERCE
PUBLICATION



N.Y.

EXHIBIT #1B

General Social and Economic Characteristics

NEW YORK

1970
CENSUS OF
POPULATION

U.S. DEPARTMENT
OF COMMERCE
Social and Economic
Statistics Administration

BUREAU OF
THE CENSUS

Table 87. Industry of Employed Persons for Areas and Places: 1970

(Data based on sample, see text. For meaning of symbols, see text)

Standard Metropolitan Statistical Areas
Places of 50,000 or More (or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

EMPLOYED PERSONS 16 YEARS OLD AND OVER

	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
				Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
EMPLOYED PERSONS 16 YEARS OLD AND OVER								
Total	6 522 650	1 915 550	4 607 100	285 138	49 254	31 235	24 622	113 987
Agriculture, forestry, and fisheries	28 517	9 351	18 926	3 357	164	52	51	657
Mining	4 684	1 986	4 898	415	11	8	29	176
Construction	267 274	90 374	196 900	17 992	3 147	1 511	861	6 450
Manufacturing	1 664 126	652 156	951 970	63 416	5 269	8 428	5 741	28 235
Furniture and lumber and wood products	30 518	9 361	21 157	984	63	22	59	398
Primary metal industries	38 140	22 850	15 290	2 519	112	393	474	1 237
Fabricated metal industries (including not specified metal)	65 006	45 114	39 892	3 294	262	272	365	1 422
Machinery, except electrical	103 038	51 487	51 551	7 382	270	1 697	226	3 255
Electrical machinery, equipment, and supplies	176 972	92 597	84 375	12 679	265	3 775	196	5 700
Motor vehicles and other transportation equipment	79 130	25 092	54 338	1 657	75	166	412	3 494
Other durable goods	193 745	76 463	117 282	7 104	643	583	1 123	3 193
Food and kindred products	87 621	34 193	53 428	3 717	889	246	313	1 493
Textile mill and other fabricated textile products	252 446	70 736	211 710	7 554	429	204	1 419	3 878
Printing, publishing, and allied industries	171 724	43 024	128 700	5 048	970	636	423	2 166
Chemical and allied products	137 768	91 287	46 481	4 070	657	187	247	1 724
Other nondurable goods (incl. not specified mfg. indu.)	218 018	89 952	128 066	7 208	614	247	484	3 162
Railroads and railway express service	29 379	9 343	20 036	3 137	539	104	194	1 350
Trucking service and warehousing	89 124	38 912	50 192	3 438	515	212	218	1 354
Other transportation	210 427	34 771	175 656	2 935	585	225	250	1 164
Communications	131 031	33 451	97 580	5 580	1 033	505	520	2 306
Utilities and sanitary services	120 300	31 008	89 292	4 022	771	458	389	1 460
Wholesale trade	316 375	86 426	229 949	11 559	1 819	1 245	913	4 952
Food, bakery, and dairy stores	167 502	50 971	116 531	8 224	1 335	859	807	3 549
Eating and drinking places	175 937	45 076	130 861	8 328	1 698	1 080	670	3 633
General merchandise retailing	171 159	49 305	121 854	7 635	1 007	1 029	705	3 620
Motor vehicles retailing and service stations	73 200	28 040	45 160	4 669	538	447	306	1 934
Other retail trade	374 898	101 537	273 361	14 771	2 898	1 785	1 289	5 853
Banking and credit agencies	170 021	37 693	132 328	4 183	805	353	397	1 775
Insurance, real estate, and other finance	390 047	86 931	303 116	8 168	1 700	724	483	3 366
Business services	208 957	50 815	158 142	5 399	697	778	235	2 555
Repair services	101 567	27 460	74 107	3 880	579	346	308	1 566
Private households	68 837	15 330	53 507	2 056	432	295	153	579
Other personal services	167 526	45 829	141 697	7 151	1 589	1 046	702	2 484
Entertainment and recreation services	71 234	11 914	59 320	1 914	285	148	138	623
Hospitals	238 039	53 517	184 522	11 181	3 292	1 439	1 155	3 307
Health services, except hospitals	124 783	32 789	91 994	1 918	1 693	982	672	2 679
Elementary and secondary schools and colleges	439 275	117 942	312 333	26 199	4 284	2 520	2 627	10 570
Government	326 794	88 020	218 774	17 003	2 775	1 679	881	7 323
Private	123 481	29 922	93 559	9 196	1 509	841	1 746	3 247
Other education and kindred services	31 757	7 680	24 077	2 981	952	210	208	1 119
Welfare, religious, and nonprofit membership organizations	116 083	24 584	91 499	5 446	1 584	593	657	1 768
Arch. engineering, and miscellaneous professional services	254 903	58 710	196 193	7 863	1 679	857	676	3 186
Public administration	342 488	81 389	261 099	31 320	8 354	2 976	2 645	12 151
Male	3 991 063	1 188 559	2 808 504	174 608	27 012	18 384	13 961	71 620
Agriculture, forestry, and fisheries	23 301	7 853	15 448	2 771	108	45	47	539
Mining	4 627	1 617	3 010	384	11	8	29	171
Construction	268 332	84 782	183 550	16 944	2 966	1 449	828	5 962
Manufacturing	1 031 918	435 981	595 937	48 749	3 979	6 481	4 136	21 755
Furniture and lumber and wood products	24 966	7 385	17 581	681	77	13	239	51
Primary metal industries	32 004	19 721	12 283	2 343	112	333	455	963
Fabricated metal industries (including not specified metal)	67 098	35 353	31 745	2 865	242	243	297	1 230
Machinery, except electrical	82 584	41 753	40 831	6 627	213	1 496	198	2 529
Electrical machinery, equipment, and supplies	112 301	56 352	55 949	10 473	227	2 805	183	5 653
Motor vehicles and other transportation equipment	68 968	21 659	47 309	1 704	60	125	396	709
Other durable goods	127 302	49 362	77 940	5 360	479	445	931	2 361
Food and kindred products	67 394	26 335	41 059	3 143	746	203	252	1 273
Textile mill and other fabricated textile products	113 035	27 102	85 933	2 854	285	44	505	1 390
Printing, publishing, and allied industries	109 415	27 040	82 375	3 743	687	437	325	1 642
Chemical and allied products	92 021	64 017	28 004	3 089	406	145	203	1 379
Other nondurable goods (incl. not specified mfg. indu.)	134 630	59 902	74 928	5 667	445	192	337	2 597
Railroads and railway express service	26 987	8 661	18 326	2 952	517	85	180	1 255
Trucking service and warehousing	79 754	34 372	45 382	3 165	495	191	214	1 194
Other transportation	169 634	27 415	142 219	2 349	557	180	201	876
Communications	67 592	18 255	51 337	2 583	289	148	147	1 273
Utilities and sanitary services	102 254	26 373	75 681	3 472	689	389	322	1 240
Wholesale trade	226 340	62 911	163 429	9 214	1 449	968	703	3 950
Food, bakery, and dairy stores	112 975	31 524	81 451	5 184	837	529	556	2 192
Eating and drinking places	112 655	23 710	88 945	4 154	865	588	435	1 459
General merchandise retailing	61 150	16 490	44 660	2 582	410	300	235	1 267
Motor vehicles retailing and service stations	64 874	24 728	40 146	4 081	471	350	276	1 577
Other retail trade	224 911	57 331	167 580	7 931	1 425	921	613	3 163
Banking and credit agencies	76 901	17 172	61 729	1 616	277	97	110	849
Insurance, real estate, and other finance	231 665	49 355	182 310	4 286	801	402	306	1 758
Business services	122 558	31 606	90 952	3 550	360	417	140	1 654
Repair services	63 011	23 268	59 723	3 391	502	269	264	1 347
Private households	6 778	1 244	5 534	162	29	30	29	54
Other personal services	95 754	20 640	75 114	2 975	854	423	288	943
Entertainment and recreation services	45 102	7 790	40 312	1 390	213	104	101	563
Hospitals	71 080	12 311	58 769	2 695	1 640	299	285	276
Health services, except hospitals	56 939	12 037	38 902	2 716	569	278	215	1 153
Elementary and secondary schools and colleges	166 634	42 466	118 168	10 499	1 498	1 034	1 222	4 180
Government	112 124	31 914	80 210	6 622	1 010	612	301	2 911
Private	48 510	10 552	37 958	3 877	488	422	921	1 269
Other education and kindred services	10 393	2 432	9 961	1 041	287	65	43	270
Welfare, religious, and nonprofit membership organizations	51 509	12 005	39 504	2 536	770	249	300	845
Arch. engineering, and miscellaneous professional services	149 179	32 286	107 893	4 014	814	370	359	1 773
Public administration	264 256	61 924	262 332	17 222	3 930	1 672	1 377	7 265
EMPLOYED PERSONS 14 AND 15 YEARS OLD								
Total	38 436	14 225	24 211	2 653	504	223	212	1 061
Agriculture	682	250	432	163	-	5	34	
Nonagriculture industries	37 754	13 975	23 779	2 490	504	223	207	1 027
Male	24 953	9 347	15 606	1 960	359	162	178	785
Agriculture	619	230	389	128	-	5	54	
Nonagriculture industries	24 334	9 117	15 217	1 832	359	162	173	751

Table 94. Industry, Last Occupation of the Experienced Unemployed, and Income in 1969 of the Negro Population for Areas and Places: 1970—Continued

Standard Metropolitan Statistical Areas
Places of 50,000 or More (or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

[Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.]

	Urbanized areas—Cen.						Places				
	New York-Northeastern New Jersey										
	Total	New Jersey portion	New York portion	Rochester	Syracuse	Utica-Rome	Albany	Binghamton	Buffalo	Levittown (U)	Mount Vernon
INDUSTRY											
Total employed, 16 years old and over	864 266	196 535	667 731	17 211	6 813	1 841	4 884	461	28 924	15	11 321
Agriculture, forestry, and fisheries	3 604	1 092	2 512	78	45	24	5	—	169	5	65
Mining	530	166	364	—	—	—	4	17	—	—	6
Construction	23 276	7 911	20 365	1 674	243	70	440	44	709	—	317
Manufacturing	183 300	67 285	116 015	5 963	2 043	681	839	114	12 016	—	2 176
Furniture and lumber and wood products	4 009	1 037	2 972	57	14	—	15	—	37	—	52
Primary metal industries	5 993	3 408	2 585	115	311	95	63	—	3 686	—	72
Fabricated metal industries (including not specified metal)	9 552	4 121	5 431	134	63	87	20	9	733	—	64
Machinery, including electrical	28 057	13 489	12 568	1 305	899	221	91	70	1 322	—	492
Transportation equipment	8 782	3 049	5 733	138	184	4	—	5	2 469	—	165
Other durable goods	30 352	11 321	19 031	3 114	215	71	209	16	1 355	—	456
Food and kindred products	8 923	3 313	5 610	334	44	48	137	4	632	—	152
Textiles and fabricated textile products	29 741	5 280	24 461	222	13	71	50	—	387	—	174
Printing, publishing, and allied industries	12 459	1 749	10 710	125	39	4	54	—	315	—	142
Other nondurable goods (incl. not specified mfg. trades)	47 432	20 518	26 914	419	261	80	200	10	1 060	—	407
Leasing, service, and warehousing	14 722	4 538	10 184	84	76	17	32	26	216	—	159
Transportation	38 716	4 395	34 321	192	83	21	86	4	463	—	235
Communications, utilities, and sanitary services	40 506	6 985	33 521	546	408	57	161	22	651	—	634
Wholesale trade	27 968	6 550	21 418	433	178	17	76	—	733	—	338
Food, bakery, and dairy stores	12 129	2 840	9 289	174	64	9	83	13	465	—	157
Eating and drinking places	17 255	3 213	14 042	301	151	12	126	14	762	—	130
Other retail trade	64 968	13 520	51 448	1 026	482	102	339	43	1 691	—	1 143
Finance, insurance, and real estate	61 016	7 795	53 221	297	311	76	139	19	642	—	544
Business and repair services	40 079	7 200	32 879	527	245	51	111	8	556	—	497
Private households	39 493	9 204	30 289	360	174	24	175	15	780	—	866
Other personal services	49 264	9 941	36 323	906	362	137	310	36	1 383	—	994
Entertainment and recreation services	7 153	760	6 393	62	38	7	37	4	108	—	61
Hospitals	72 322	12 111	60 211	1 570	546	117	596	21	2 771	10	612
Educational and kindred services	42 058	9 670	32 388	1 090	560	158	280	44	1 694	—	535
Other professional and related services	66 206	10 839	55 367	1 309	600	112	402	14	2 079	—	1 161
Public administration	57 701	10 520	47 181	619	204	149	647	16	999	—	671
LAST OCCUPATION OF EXPERIENCED UNEMPLOYED											
Male, 16 years old and over	23 422	5 971	17 451	834	331	104	270	45	1 527	—	179
Professional, technical, and managerial workers	1 404	233	1 171	41	28	17	6	6	56	—	19
Sales workers	549	99	450	—	4	—	—	—	27	—	12
Clerical and kindred workers	3 119	455	2 664	9	6	4	33	—	83	—	10
Craftsmen, foremen, and kindred workers	3 554	844	2 710	147	81	27	66	9	213	—	27
Clerical, including transport	6 600	2 048	4 552	191	103	24	37	3	566	—	52
Laborers, except farm	3 984	1 470	2 514	353	68	16	35	19	375	—	34
Farm workers	125	20	105	7	13	6	—	11	—	—	—
Service workers, including private household	3 607	747	2 860	77	28	10	93	8	180	—	25
Female, 16 years old and over ¹	19 452	6 004	13 448	593	303	131	76	17	1 280	—	199
Professional, technical, and managerial workers	1 055	195	860	35	6	—	—	4	82	—	24
Sales workers	718	151	567	25	31	—	—	—	61	—	5
Clerical and kindred workers	4 475	835	3 640	109	58	31	35	8	242	—	53
Clerical, including transport	7 109	3 249	3 860	193	93	43	20	—	337	—	34
Other blue-collar workers	737	249	488	26	22	4	9	—	40	—	11
Farm workers	33	16	17	—	—	4	—	—	—	—	—
Service workers, except private household	2 752	750	2 002	175	69	36	—	5	334	—	36
Private household workers	1 771	404	1 367	22	15	6	8	—	84	—	31
INCOME OF FAMILIES, UNRELATED INDIVIDUALS, AND PERSONS											
All families	563 097	125 203	437 894	10 708	4 929	1 511	3 048	321	20 670	5	6 299
Less than \$1,000	31 844	5 430	26 414	517	282	76	234	10	975	—	244
\$1,000 to \$1,999	20 981	4 429	16 552	440	261	66	155	18	1 035	—	173
\$2,000 to \$2,999	34 570	7 477	27 093	585	372	110	231	21	1 919	—	290
\$3,000 to \$3,999	40 124	9 140	30 984	691	451	100	294	9	1 947	—	311
\$4,000 to \$4,999	41 721	9 362	32 359	885	504	162	301	25	1 511	—	349
\$5,000 to \$5,999	47 141	9 667	37 474	918	390	146	287	17	1 404	—	502
\$6,000 to \$6,999	47 144	9 888	37 256	919	417	114	251	7	1 678	—	469
\$7,000 to \$7,999	44 314	9 704	34 610	671	316	148	196	28	1 560	—	470
\$8,000 to \$8,999	39 607	8 976	30 631	793	326	141	175	40	1 394	—	362
\$9,000 to \$9,999	34 646	8 120	26 526	665	340	59	235	17	1 207	5	490
\$10,000 to \$11,999	57 711	13 704	44 007	1 129	523	180	290	27	2 452	—	770
\$12,000 to \$14,999	57 732	14 299	43 433	1 265	432	106	208	57	2 018	—	795
\$15,000 to \$24,999	56 680	13 186	43 694	1 103	264	103	168	45	1 298	—	889
\$25,000 to \$49,999	7 504	1 621	5 883	116	42	—	9	—	158	—	157
\$50,000 or more	1 178	200	978	11	9	—	14	74	—	8	—
Median income	\$7 407	\$7 743	\$7 312	\$7 595	\$6 490	\$6 838	\$6 088	\$8 638	\$6 920	...	\$8 894
Mean income	\$8 407	\$8 609	\$8 349	\$8 438	\$7 284	\$7 306	\$7 265	\$8 923	\$8 018	...	\$9 704
Families with female head	177 101	37 877	139 224	3 290	1 848	430	1 070	88	6 992	—	1 759
Mean income	\$5 383	\$5 158	\$5 444	\$4 791	\$4 427	\$4 288	\$4 251	...	\$4 660	—	\$6 277
All families and unrelated individuals	826 371	175 216	651 155	15 360	7 240	2 259	4 964	425	31 000	5	9 139
Median income	\$5 925	\$6 240	\$5 851	\$6 161	\$5 198	\$5 161	\$4 574	\$7 368	\$5 307	—	\$6 707
All unrelated individuals	\$6 957	\$7 210	\$6 888	\$7 130	\$6 060	\$5 930	\$5 707	\$7 594	\$6 533	—	\$7 658
Median income	263 274	50 013	213 261	4 652	2 311	748	1 916	104	10 330	—	2 840
Female unrelated individuals	\$3 333	\$3 147	\$3 375	\$3 771	\$2 741	\$2 530	\$2 504	\$3 167	\$2 522	—	\$3 180
Mean income	\$3 655	\$3 708	\$3 889	\$4 119	\$3 449	\$3 150	\$3 229	\$3 493	\$3 562	—	\$3 763
Per capita income of persons	147 447	26 696	120 751	1 990	1 042	243	960	28	4 893	—	1 682
Mean other income	\$3 226	\$2 856	\$3 307	\$2 887	\$2 519	\$2 457	\$2 107	...	\$2 723	—	\$2 955
Per capita income of persons	\$2 392	\$2 318	\$2 414	\$2 151	\$1 964	\$1 804	\$2 053	\$2 252	\$2 176	...	\$2 785
TYPE OF INCOME OF FAMILIES											
All families	563 097	125 203	437 894	10 708	4 929	1 511	3 048	321	20 670	5	6 299
With wage or salary income	467 917	103 038	359 879	9 510	4 220	1 341	2 571	285	16 916	5	5 679
With nonfarm self-employment income	58 717	\$8 704	\$8 721	\$8 464	\$7 115	\$7 017	\$7 209	\$9 120	\$7 782	...	\$9 616
With farm self-employment income	22 701	5 411	17 290	518	123	65	57	—	666	—	278
With Social Security income	55 723	\$5 636	\$5 750	\$6 074	\$7 624	...	...	...	\$7 347	—	\$5 621
With public assistance or public welfare income	59 964	303	661	15	10	—	6	—	39	—	—
With other income	\$5 120	\$3 076	\$6 058	...	...	—	—	—	—	—	—
Mean Social Security income	69 266	16 194	53 072	889	512	191	392	27	3 118	—	933
Mean Social Security income	\$1 581	\$1 486	\$1 610	\$1 564	\$1 577	\$1 514	\$1 556	...	\$1 618	—	\$1 373
With public assistance or public welfare income	111 194	23 281	87 907	2 050	1 458	397	645	96	5 212	—	772
Mean public assistance or public welfare income	\$2 234	\$2 244	\$2 232	\$1 815	\$2 253	\$1 778	\$1 719	...	\$2 153	—	\$1 814

Table 100. Industry, Last Occupation of the Experienced Unemployed, and Income in 1969 of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970—Continued

(Data based on sample; see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.)

Standard Metropolitan
Statistical Areas
Places of 50,000 or More
(or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

	Urbanized areas—Con						Places				
	New York—Northeastern New Jersey										
	Total	New Jersey portion	New York portion	Rochester	Syracuse	Utica-Rome	Albany	Binghamton	Buffalo	Levittown (1)	Mount Vernon
INDUSTRY											
Total employed, 16 years old and over	258 040	32 601	225 439	1 804	234	99	63	29	864	181	126
Agriculture, forestry, and fisheries	1 047	253	794	19	7	—	—	—	—	7	7
Mining	122	14	108	—	—	—	—	—	—	—	—
Construction	5 523	906	4 617	32	9	5	—	—	23	—	5
Manufacturing	98 864	19 301	79 563	1 069	96	61	7	5	468	31	67
Furniture and lumber and wood products	3 589	597	2 992	16	—	—	—	—	30	—	—
Primary metal industries	2 094	695	1 399	—	13	—	—	—	103	—	7
Fabricated metal industries (including not specified metal)	5 235	1 462	3 773	41	—	7	7	—	26	6	—
Machinery, including electrical	11 122	3 317	7 805	130	32	—	—	5	46	—	—
Transportation equipment	1 973	484	1 489	—	9	—	—	—	16	13	—
Other durable goods	14 924	2 745	12 179	318	—	8	—	—	94	—	19
Food and kindred products	4 371	1 024	3 347	161	—	25	—	—	27	—	—
Textile and fabricated textile products	28 073	3 447	24 626	265	—	6	—	—	43	—	8
Printing, publishing, and allied industries	5 759	541	5 218	8	6	8	—	—	34	—	12
Other nondurable goods (incl. not specified mfg. indus.)	21 724	4 989	16 735	130	36	7	—	—	49	12	21
Trucking, service and warehousing	3 358	490	2 868	—	—	—	—	—	8	—	—
Other transportation	9 026	470	8 556	52	—	—	6	—	51	7	—
Communications, utilities, and sanitary services	5 643	502	5 141	32	—	—	—	—	—	8	—
Wholesale trade	10 340	1 102	9 238	23	—	7	—	—	28	26	8
Food, bakery, and dairy stores	8 509	774	7 735	42	—	—	—	—	8	14	—
Eating and drinking places	11 489	1 054	10 435	92	6	—	—	—	32	14	—
Other retail trade	19 217	1 920	17 297	35	16	—	—	7	36	18	—
Finance, insurance, and real estate	19 754	1 024	18 730	23	8	—	8	5	—	—	—
Business and repair services	11 272	1 001	10 271	32	24	—	—	—	26	12	—
Private households	782	68	714	—	—	—	—	—	—	—	—
Other personal services	11 204	919	10 285	42	16	19	—	—	7	—	12
Entertainment and recreation services	1 941	116	1 825	9	—	—	—	—	8	—	4
Hospitals	12 716	551	12 165	45	6	—	17	6	40	6	5
Educational and kindred services	6 654	505	6 149	101	16	—	13	—	33	14	8
Other professional and related services	11 115	926	10 189	95	18	—	6	6	63	—	—
Public administration	9 464	705	8 759	61	12	7	6	—	33	24	10
LAST OCCUPATION OF EXPERIENCED UNEMPLOYED											
Male, 16 years old and over ¹	10 089	1 333	8 756	49	8	36	11	—	66	—	6
Professional, technical, and managerial workers	363	22	341	6	—	—	—	—	—	—	—
Sales workers	247	78	369	—	—	—	—	—	—	—	—
Clerical and kindred workers	1 215	106	1 109	—	—	—	—	—	7	—	—
Craftsmen, foremen, and kindred workers	1 443	173	1 270	19	—	6	—	—	—	—	—
Operatives, including transport	3 600	638	2 962	13	8	30	—	—	38	—	6
Laborers, except farm	1 136	157	979	4	—	—	11	—	13	—	—
Farm workers	89	14	75	—	—	—	—	—	8	—	—
Service workers, including private household	1 552	139	1 413	7	—	—	—	—	—	—	—
Female, 16 years old and over ¹	6 092	1 055	5 037	41	—	4	—	—	17	—	—
Professional, technical, and managerial workers	179	17	162	—	—	—	—	—	—	—	—
Sales workers	245	43	202	—	—	—	—	—	—	—	—
Clerical and kindred workers	981	100	881	—	—	—	—	—	—	—	—
Operatives, including transport	3 642	805	2 837	22	—	—	—	—	7	—	—
Other blue-collar workers	337	44	293	10	—	—	—	—	—	—	—
Farm workers	10	—	10	9	—	—	—	—	—	—	—
Service workers, except private household	434	29	405	—	—	—	—	—	—	—	—
Private household workers	56	—	56	—	—	—	—	—	—	—	—
INCOME OF FAMILIES, UNRELATED INDIVIDUALS, AND PERSONS											
All families	231 890	24 288	207 602	1 172	200	120	33	24	864	164	98
less than \$1,000	17 648	1 440	16 408	59	16	—	6	61	13	—	—
\$1,000 to \$1,999	10 565	736	9 829	47	53	—	5	65	6	—	—
\$2,000 to \$2,999	19 082	1 363	17 719	40	—	20	—	67	—	—	—
\$3,000 to \$3,999	25 253	2 398	22 855	58	—	11	—	107	—	5	—
\$4,000 to \$4,999	24 499	2 423	22 076	77	22	22	6	58	—	18	—
\$5,000 to \$5,999	25 291	2 785	22 506	77	34	15	6	64	—	—	—
\$6,000 to \$6,999	22 036	2 483	19 533	113	24	—	6	74	—	—	—
\$7,000 to \$7,999	17 728	1 914	15 814	167	25	13	—	76	7	12	—
\$8,000 to \$8,999	14 705	1 593	13 112	79	7	8	7	97	15	—	—
\$9,000 to \$9,999	10 841	1 299	9 542	46	—	5	—	56	38	—	—
\$10,000 to \$11,999	17 835	2 408	15 427	134	12	26	9	5	94	44	12
\$12,000 to \$14,999	14 121	1 681	12 440	155	7	26	—	7	32	13	35
\$15,000 to \$24,999	10 596	1 506	9 090	105	—	—	—	—	13	28	16
\$25,000 to \$49,999	1 253	213	1 040	15	—	—	—	—	—	—	—
\$50,000 or more	237	46	191	—	—	—	—	—	—	—	—
Median income	55 739	\$6 402	\$5 663	\$7 689	\$5 265	\$5 467	—	—	\$6 135	\$10 136	—
Mean income	\$6 562	\$7 331	\$6 494	\$8 801	\$4 837	\$6 228	—	—	\$6 104	\$10 431	—
Families with female head	64 023	4 778	59 245	110	22	26	6	—	210	13	10
Mean income	\$3 971	\$3 841	\$3 981	\$3 309	—	—	—	—	\$3 887	—	—
All families and unrelated individuals	276 422	28 967	247 455	1 396	287	177	84	35	1 018	112	—
Median income	\$5 262	\$5 646	\$5 210	\$7 183	\$4 932	\$4 533	—	—	\$5 519	\$10 060	\$11 167
Mean income	\$6 083	\$5 753	\$6 005	\$7 958	\$5 271	\$5 267	—	—	\$6 441	\$10 157	\$10 132
All unrelated individuals	44 532	4 679	39 853	224	67	57	51	11	154	6	14
Median income	\$3 154	\$3 659	\$3 084	\$3 923	—	—	—	—	\$3 500	—	—
Mean income	\$3 485	\$3 756	\$3 454	\$3 551	—	—	—	—	\$8 331	—	—
Female unrelated individuals	26 141	1 471	18 670	73	12	5	24	5	54	—	7
Mean income	\$2 753	\$2 501	\$2 773	—	—	—	—	—	—	—	—
Per capita income of persons	\$1 772	\$1 837	\$1 764	\$1 913	\$1 662	\$1 549	\$2 776	—	\$1 654	\$2 720	\$2 868
TYPE OF INCOME OF FAMILIES											
All families	231 890	24 288	207 602	1 172	200	120	33	24	864	164	98
With wage or salary income	172 672	20 366	152 306	1 021	185	103	33	18	633	151	98
Mean wage or salary income	\$7 209	\$7 634	\$7 152	\$8 974	\$4 672	\$5 908	—	—	\$6 902	\$10 737	—
With nonfarm self-employment income	7 141	791	6 350	45	—	—	—	—	26	7	—
Mean nonfarm self-employment income	\$5 690	\$6 514	\$5 587	—	—	—	—	—	—	—	—
With farm self-employment income	244	41	203	—	—	—	—	—	6	—	—
Mean farm self-employment income	\$7 569	—	\$8 611	—	—	—	—	—	—	—	—
With Social Security income	18 454	1 479	16 975	90	5	6	—	6	74	40	—
Mean Social Security income	\$1 498	\$1 390	\$1 508	—	—	—	—	—	—	—	—
With public assistance or public welfare income	65 126	4 715	60 411	232	70	40	11	—	278	7	—
Mean public assistance or public welfare income	\$2 443	\$2 321	\$2 452	\$2 227	—	—	—	—	\$2 253	—	—
With other income	21 933	2 104	19 829	108	13	17	—	—	63	48	8
Mean other income	\$2 384	\$2 049	\$2 420	\$1 766	—	—	—	—	—	—	—

¹Includes persons who last worked more than 10 years ago, not shown separately.

Table 85. Employment Status by Sex, for Areas and Places: 1970—Continued

(Data based on sample; see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.)

**Standard Metropolitan
Statistical Areas**
**Places of 50,000 or More
(or Central Cities)**
Urban Balance
Urbanized Areas
Places of 50,000 or More

EMPLOYMENT STATUS

	Urbanized areas—Con						Places				
	New York—Northeastern New Jersey						Albany		Binghamton		Buffalo
	Total	New Jersey portion	New York portion	Rochester	Syracuse	Utica-Rome				Dev. Town (U)	Albany
Male, 16 years old and over											
Labor force	5 404 276	1 607 077	3 797 199	196 023	122 566	60 747	39 017	21 209	151 377	20 095	24 104
Percent of total	4 153 466	1 266 795	2 876 671	155 077	94 253	44 291	28 265	15 452	108 792	16 993	16 744
Armed Forces	770	80.1	758	79.1	76.9	72.9	72.4	73.0	71.9	84.6	75.7
Civilian labor force	29 034	12 377	16 657	221	1 624	3 162	75	17	257	36	50
Employed	4 134 432	1 274 418	2 860 014	154 856	92 629	41 129	28 191	15 475	108 535	16 957	14 934
Unemployed	3 997 247	1 236 025	2 781 222	150 597	89 028	38 972	27 012	14 759	102 098	16 580	15 362
Percent of civilian labor force	3.3	3.0	3.5	2.8	3.9	5.2	4.2	4.6	5.9	2.2	3.0
Not in labor force	1 240 810	320 282	920 529	40 946	28 313	16 456	10 751	5 717	42 585	3 102	5 145
Inmate of institution	66 677	14 461	52 216	2 473	2 703	3 853	2 944	752	2 630	—	59
Enrolled in school	369 274	104 614	264 660	12 720	11 778	3 998	3 751	1 184	10 418	1 904	1 540
Other, Under 65 years old	338 372	73 146	265 226	8 218	5 645	2 944	1 928	1 281	11 153	604	1 424
Percent disabled	39.0	42.1	38.2	43.5	49.4	62.7	52.1	42.2	54.5	31.0	55.1
65 years and over	466 487	128 061	338 426	17 535	10 187	5 661	4 278	2 460	18 184	594	2 087
Male, 14 and 15 years old	300 925	94 827	206 098	11 345	7 209	3 374	2 081	1 211	8 795	1 666	1 256
Labor force	28 245	10 954	17 294	1 741	974	358	360	159	967	143	184
Percent of total	9.4	11.6	8.4	15.3	13.5	10.6	18.3	13.1	11.0	8.6	14.6
Employed	25 059	9 817	15 242	1 626	886	336	359	147	863	133	138
Unemployed	3 150	1 118	2 032	115	88	22	21	12	104	10	46
Percent of civilian labor force	11.2	10.2	11.8	6.6	9.0	6.1	5.5	7.5	10.8	7.0	25.0
Not in labor force	272 677	83 873	188 804	9 604	6 235	3 016	1 701	1 052	7 828	1 523	1 072
Female, 16 years old and over	6 288 844	1 824 420	4 464 424	225 162	140 055	68 582	49 692	26 545	185 015	21 668	30 305
Labor force	2 650 990	795 830	1 855 160	101 751	62 814	27 971	22 842	11 215	74 368	9 075	14 751
Percent of total	42.2	43.6	41.6	45.2	44.8	40.8	46.0	42.2	40.2	41.9	48.7
Armed Forces	856	347	509	17	96	36	—	—	35	—	5
Civilian labor force	2 650 134	795 483	1 854 651	101 734	62 718	27 935	22 842	11 215	74 333	9 075	14 748
Employed	4 531 148	756 506	1 774 642	97 756	60 338	25 918	22 242	10 597	69 782	8 737	11 195
Unemployed	118 986	38 977	80 009	3 978	2 380	2 017	600	618	4 551	338	551
Percent of civilian labor force	4.5	4.9	4.3	3.9	3.8	7.2	2.6	5.5	6.1	3.7	3.7
Not in labor force	3 637 854	1 028 590	2 609 264	123 411	77 241	40 611	26 850	15 330	110 647	12 593	15 554
Inmate of institution	68 144	16 141	52 003	3 855	1 144	4 236	504	1 158	2 779	—	404
Enrolled in school	363 293	103 046	260 247	11 933	10 793	4 263	4 735	1 233	12 623	1 691	1 370
Other, Under 65 years old	2 364 359	672 734	1 691 625	76 719	46 789	22 054	12 940	7 958	63 393	9 291	9 378
Percent disabled	12.6	11.6	13.0	13.2	13.7	13.6	14.1	18.0	18.6	8.7	16.9
65 years and over	842 058	236 669	605 389	30 904	18 515	10 058	8 671	4 981	31 652	1 411	4 402
Female, 14 and 15 years old	289 444	91 257	198 187	10 842	7 159	3 404	1 726	1 126	8 208	1 670	1 082
Labor force	15 657	5 919	9 738	674	434	80	183	106	256	20	82
Percent of total	5.4	6.5	4.9	6.2	6.1	2.4	10.6	9.4	3.1	1.2	7.6
Employed	13 516	5 130	8 386	599	386	80	145	96	161	20	77
Unemployed	2 141	789	1 352	75	48	—	38	10	95	—	5
Percent of civilian labor force	13.7	13.3	13.9	11.1	11.1	—	20.8	9.4	37.1	—	—
Not in labor force	273 787	85 338	188 449	10 168	6 725	3 324	1 543	1 020	7 952	1 650	1 000
MARITAL STATUS AND PRESENCE OF OWN CHILDREN											
Total women, 16 years old and over	6 288 844	1 824 420	4 464 424	225 162	140 055	68 582	49 692	26 545	185 015	21 668	30 305
With own children under 6 years	1 041 034	316 115	724 919	43 246	25 327	11 638	6 071	3 807	27 762	4 657	4 443
In labor force	222 079	74 969	147 110	11 865	6 796	3 281	1 871	1 220	7 377	631	1 394
Percent in labor force	21.3	23.7	20.3	27.4	26.8	28.2	30.8	32.0	26.6	13.5	31.4
With own children 6 to 17 years only	1 176 472	38 460	808 012	40 280	25 982	11 883	6 266	3 971	29 293	6 512	4 791
In labor force	549 345	184 109	365 236	20 846	13 817	6 290	3 445	2 209	14 040	3 188	2 620
Percent in labor force	46.7	50.0	45.2	51.8	53.2	52.9	55.0	55.6	47.9	49.0	58.9
No own children under 18 years	4 071 338	1 139 845	2 931 493	141 636	88 746	45 061	37 355	18 767	127 960	10 499	21 071
In labor force	1 879 566	536 752	1 342 814	69 040	42 201	18 400	17 526	7 786	52 951	5 256	10 537
Percent in labor force	46.2	47.1	45.8	48.7	47.6	40.8	46.9	41.5	41.4	50.1	50.0
Married women, 16 years old and over, husband present	3 493 186	1 079 444	2 413 742	130 828	78 076	36 958	21 063	12 911	88 230	14 369	15 740
With own children under 6 years	691 258	281 241	610 017	38 493	22 145	10 282	4 951	3 147	22 238	4 455	3 571
In labor force	173 722	60 256	113 466	9 456	5 366	2 609	1 320	908	5 608	548	1 603
Percent in labor force	19.5	21.4	18.6	24.6	24.2	25.4	26.7	28.9	25.2	12.3	28.1
With own children 6 to 17 years only	984 918	319 846	665 072	35 131	22 373	10 257	4 864	3 194	22 468	5 980	3 878
In labor force	436 902	151 761	285 141	17 050	11 382	5 165	2 454	1 686	10 317	2 772	2 184
Percent in labor force	44.4	47.4	42.9	48.5	50.9	50.4	50.5	52.8	45.9	46.4	56.0
No own children under 18 years	1 617 010	478 357	1 138 653	57 264	33 558	16 419	11 248	6 619	43 524	3 934	8 271
In labor force	699 355	215 424	483 961	27 163	15 687	7 420	4 914	2 725	16 287	2 055	3 846
Percent in labor force	43.3	45.0	42.5	47.4	46.7	45.2	43.7	41.2	37.4	52.2	46.5
Other women	2 795 658	744 976	2 050 682	94 274	61 979	31 624	28 629	13 565	96 785	7 299	14 565
With own children under 6 years	149 776	34 874	114 902	4 753	3 182	1 356	1 120	660	5 524	202	872
In labor force	48 357	14 713	33 644	2 409	1 430	672	551	312	1 769	83	391
Percent in labor force	32.3	42.2	29.3	50.7	44.9	49.6	49.2	47.3	32.0	41.1	44.8
With own children 6 to 17 years only	191 554	48 614	142 940	5 149	3 609	1 626	1 402	777	6 625	532	893
In labor force	112 443	32 348	80 095	3 796	2 435	1 125	991	521	3 723	416	636
Percent in labor force	58.7	66.5	56.0	73.7	67.5	69.2	70.7	67.1	54.5	78.2	71.2
No own children under 18 years	2 454 328	661 488	1 792 840	84 372	55 188	28 642	26 107	12 148	84 426	6 565	12 600
In labor force	1 160 161	321 328	858 653	41 877	26 514	10 980	12 612	5 061	36 664	3 201	6 591
Percent in labor force	48.1	48.6	47.9	49.6	48.0	38.3	48.3	41.7	43.4	48.8	52.3
PERCENT IN LABOR FORCE											
Male, 16 and 17 years	27.7	33.3	25.2	42.9	36.6	30.9	44.2	35.8	33.2	32.0	24.8
18 and 19 years	50.9	56.8	48.4	61.7	48.3	55.0	47.0	63.6	58.8	62.2	54.2
20 and 21 years	64.1	68.8	62.2	71.6	60.9	72.3	61.0	74.9	79.4	66.4	60.0
22 to 24 years	82.7	87.1	80.9	86.6	81.7	88.1	81.1	85.7	82.7	82.3	84.1
25 to 34 years	92.9	95.4	91.9	95.3	93.7	91.5	91.3	93.7	91.6	98.5	92.2
35 to 44 years	94.6	96.6	93.7	96.2	96.6	91.2	95.1	92.4	92.0	98.3	94.0
45 to 64 years	89.7	91.9	88.7	91.4	91.2	84.3	66.8	86.4	84.9	96.3	91.5
65 years and over	29.6	29.0	29.8	23.2	27.6						

Table 92. Employment Characteristics of the Negro Population for Areas and Places: 1970

[Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.]

Standard Metropolitan Statistical Areas
Places of 50,000 or More (or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

EMPLOYMENT STATUS

	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
	Total	New Jersey portion		New York portion	Albany-Schenectady-Troy		Troy	Urban balance
					Albany	Schenectady		
Male, 16 years old and over	671 158	141 434	529 724	6 376	3 718	908	758	776
Labor force	467 575	107 170	380 405	4 874	2 882	676	620	539
Percent of total	72.6	75.8	71.8	74.4	77.5	74.4	81.8	69.5
Civilian labor force	485 082	106 735	378 347	4 652	2 876	676	620	529
Employed	459 362	100 721	358 641	4 464	2 594	610	616	564
Unemployed	25 721	6 014	19 706	388	282	66	4	25
Percent of civilian labor force	5.3	5.6	5.2	8.0	9.8	9.8	6.6	4.7
Not in labor force	183 583	34 264	149 319	1 502	836	232	138	137
Inmate of institution	19 083	4 137	14 946	117	41	10	—	52
Enrolled in school	48 867	9 932	38 935	484	236	98	71	68
Other: Under 65 years	79 298	13 004	66 294	495	322	78	47	34
65 years and over	36 325	7 191	29 144	406	237	46	20	83
Female, 16 years old and over	875 066	177 322	697 744	7 690	4 642	1 024	873	887
Labor force	420 608	92 002	328 806	4 037	2 374	584	505	474
Percent of total	48.1	51.9	47.1	52.5	51.1	57.0	57.8	51.2
Civilian labor force	420 620	91 971	328 649	4 037	2 374	584	505	454
Employed	398 841	85 817	313 024	3 883	2 290	567	480	431
Unemployed	21 779	6 154	15 623	154	84	17	25	23
Percent of civilian labor force	5.2	6.7	4.8	3.8	3.5	2.9	5.0	5.1
Not in labor force	454 258	85 320	368 938	3 65	2 268	440	368	433
Inmate of institution	7 637	1 225	6 412	96	12	—	5	57
Enrolled in school	54 775	11 208	43 567	529	310	88	73	30
Other: Under 65 years	330 627	61 432	269 195	2 519	1 647	280	252	281
65 years and over	61 219	11 455	49 764	509	299	72	38	65
Male, 16 to 21 years old	110 286	23 538	86 748	1 089	615	168	162	117
Not enrolled in school	52 921	11 049	41 872	436	248	55	75	48
Not high school graduate	30 222	5 842	24 380	245	147	26	47	20
Unemployed or not in labor force	18 586	3 344	15 242	129	68	18	7	11

MARITAL STATUS AND PRESENCE OF OWN CHILDREN

Women, 16 years old and over	875 066	177 322	697 744	7 690	4 642	1 024	873	887
With own children under 6 years	193 920	44 212	149 708	1 880	1 207	206	276	133
In labor force	69 710	18 957	50 753	884	523	139	139	64
With own children 6 to 17 years only	166 905	35 176	131 729	1 440	785	224	174	211
In labor force	89 183	20 959	68 224	968	500	174	140	137
Married women, husband present	361 963	77 526	284 337	3 217	1 781	448	424	429
In labor force	171 762	15	130 287	1 779	948	284	275	215
With own children under 6 years	121 058	27	93 179	1 176	671	141	192	114
In labor force	46 142	2	33 450	548	267	106	111	45
With own children 6 to 17 years only	99 747	21 250	78 497	879	445	134	120	141
In labor force	52 196	12 775	39 421	575	295	97	100	73

PERCENT IN LABOR FORCE

Male: 14 and 15 years	7.6	8.9	7.2	7.9	9.2	—	—	—
16 and 17 years	17.8	21.8	16.7	31.8	43.5	—	—	—
18 and 19 years	44.4	50.9	42.6	53.0	66.5	—	—	—
20 and 21 years	63.3	66.8	62.4	78.0	78.5	—	—	—
22 to 24 years	77.2	81.4	76.0	92.9	96.8	—	—	—
25 to 34 years	87.1	89.5	86.5	88.3	86.8	89.8	91.0	89.0
35 to 44 years	87.8	90.7	87.0	94.5	93.1	94.6	100.0	—
45 to 64 years	81.9	84.5	81.2	82.6	80.3	88.4	87.0	81.4
65 years and over	26.5	29.5	25.8	32.8	28.2	—	—	29.3
Female: 14 and 15 years	5.3	5.0	5.4	9.0	9.6	—	—	—
16 and 17 years	14.4	16.7	13.7	23.8	26.6	—	—	—
18 and 19 years	40.7	47.0	39.0	36.8	40.2	—	—	—
20 and 21 years	52.8	57.2	51.6	68.5	61.7	—	—	—
22 to 24 years	53.8	58.2	52.6	54.8	53.2	—	—	—
25 to 34 years	51.2	56.4	49.8	57.8	57.1	65.4	61.1	52.7
35 to 44 years	56.6	61.4	55.4	60.6	57.4	77.8	68.4	53.9
45 to 64 years	53.4	57.8	54.9	59.2	58.1	58.6	65.5	60.7
65 years and over	16.2	18.4	15.6	19.9	15.8	—	—	14.9

WORKERS IN 1969 BY WEEKS WORKED

Male, 16 years old and over	517 428	113 982	403 446	5 207	3 062	732	628	612
57 to 52 weeks	317 027	70 366	246 661	2 872	1 628	372	407	368
27 to 49 weeks	142 135	31 015	111 120	1 594	982	261	166	140
26 weeks or less	55 266	12 601	45 665	741	452	99	55	104
Female, 16 years old and over	471 941	104 080	367 861	4 630	2 709	661	587	576
59 to 52 weeks	226 678	47 215	179 463	2 160	1 306	262	282	290
27 to 49 weeks	153 800	33 781	120 019	1 349	748	220	170	172
26 weeks or less	91 463	23 084	68 379	1 121	646	179	135	114

CLASS OF WORKER, 16 YEARS OLD AND OVER

Employed	459 362	100 721	358 641	4 464	2 594	610	616	504
Private wage or salary workers	350 538	82 751	267 787	3 334	1 973	434	491	337
Government workers	92 771	14 457	78 314	1 005	565	142	111	146
Local government workers	50 600	6 712	43 888	295	151	71	44	24
Employed workers	15 882	3 502	12 380	121	56	34	14	17
Non-family workers	171	11	160	4	—	—	—	4
Non-employed	398 841	85 817	313 024	3 883	2 290	567	480	431
Private wage or salary workers	297 201	67 962	229 239	2 486	1 477	360	307	265
Government workers	95 179	16 563	78 616	1 361	795	175	173	166
Local government workers	57 840	8 255	49 585	372	182	60	92	31
Employed workers	5 990	1 178	4 812	36	18	12	—	—
Non-family workers	471	114	357	—	—	—	—	—
Non-employed, in agriculture	2 912	741	2 171	11	—	4	4	3
Private wage or salary workers	2 132	501	1 631	4	—	—	4	—
Employed workers	766	240	526	7	—	4	—	3
Non-family workers	14	—	14	—	—	—	—	—
Non-employed, in agriculture	1 105	317	788	5	5	—	—	—
Private wage or salary workers	774	230	544	5	5	—	—	—
Employed workers	273	75	198	—	—	—	—	—
Non-family workers	58	12	46	—	—	—	—	—

LEAVOR MOBILITY FOR MALES¹

Age 30 to 49 years old in 1970	269 868	56 886	212 982	2 299	1 354	319	291	240
Worker in 1965, nonworker in 1970	24 790	3 816	20 974	142	95	10	7	25
Worker in 1965, worker in 1970	41 398	8 740	32 658	349	251	30	49	11
Non-worker in 1965, worker in 1970	16 621	3 680	12 941	158	80	32	16	20

¹The concept "worker" includes the employed plus members of the Armed Forces.

Table 98. Employment Characteristics of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970

[Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.]

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
				Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
EMPLOYMENT STATUS								
Male, 16 years old and over	256 039	20 746	227 793	229	54	67	39	44
Labor force	187 320	23 292	164 028	170	40	51	17	37
Percent of total	73 2	82 3	72 0	74 2	...	...	...	...
Civilian labor force	186 541	23 251	163 290	170	40	51	17	37
Employed	175 305	21 900	153 405	142	29	43	8	37
Unemployed	11 236	1 351	9 685	28	11	8	9	-
Percent of civilian labor force	6 0	5 8	6 1	16 5	...	...	...	-
Not in labor force	68 719	4 954	63 765	59	14	16	22	7
Inmate of institution	3 370	233	3 137	-	-	-	-	-
Enrolled in school	20 243	1 580	18 663	51	14	16	14	-
Other: Under 65 years	37 699	2 691	35 008	8	-	-	8	-
65 years and over	7 407	450	6 957	-	-	-	-	-
Female, 16 years old and over	305 610	30 370	275 240	195	60	13	39	56
Labor force	89 641	11 113	78 528	113	34	5	22	33
Percent of total	29 3	36 6	28 5	57 9	...	...	...	...
Civilian labor force	89 617	11 107	78 510	113	34	5	22	33
Employed	62 477	10 013	72 464	108	34	-	22	33
Unemployed	7 140	1 094	6 046	5	-	5	-	-
Percent of civilian labor force	8 0	9 8	7 7	4 4	...	...	...	-
Not in labor force	215 969	19 257	196 712	82	26	8	17	23
Inmate of institution	693	12	671	-	-	-	-	-
Enrolled in school	20 001	1 215	18 286	13	8	5	5	-
Other: Under 65 years	182 116	16 728	165 388	61	18	8	12	15
65 years and over	13 169	802	12 367	8	-	-	-	-
Male, 16 to 21 years old	50 012	5 438	44 574	53	14	27	-	12
Not enrolled in school	25 682	3 206	22 476	-	-	-	-	-
Not high school graduate	19 392	2 548	16 844	-	-	-	-	-
Unemployed or not in labor force	9 455	800	8 655	-	-	-	-	-
MARITAL STATUS AND PRESENCE OF OWN CHILDREN								
Male, 16 years old and over	305 610	30 370	275 240	195	60	13	39	56
With own children under 6 years	101 446	12 005	89 441	35	12	8	-	7
In labor force	15 927	2 573	13 354	14	6	-	-	-
With own children 6 to 17 years only	72 013	6 530	65 483	69	12	5	34	10
In labor force	21 288	2 830	18 458	43	6	5	22	10
Married women, husband present	160 746	18 622	142 124	130	30	13	34	32
In labor force	43 699	6 426	37 273	69	12	5	22	17
With own children under 6 years	70 755	9 531	61 224	29	6	8	-	7
In labor force	11 868	2 178	9 690	8	-	-	-	-
With own children 6 to 17 years only	47 952	4 811	43 141	59	12	5	34	-
In labor force	14 743	2 147	12 596	33	6	5	22	-
PERCENT IN LABOR FORCE								
Male	14 and 15 years	5.7	8.7	5.4	-	-	-	-
	16 and 17 years	18.6	34.7	16.9	...	...	...	...
	18 and 19 years	47.0	65.9	44.7	...	...	...	...
	20 and 21 years	67.9	78.4	66.4	...	...	...	...
	22 to 24 years	81.2	90.9	78.8	...	...	...	...
	25 to 34 years	86.8	91.2	86.1	...	...	...	...
	35 to 44 years	86.9	91.8	86.3	...	...	...	...
	45 to 64 years	76.7	82.8	76.1	...	...	...	...
	65 years and over	19.8	32.2	18.7	...	...	...	...
Female	14 and 15 years	4.4	4.5	4.4	-	-	-	-
	16 and 17 years	14.3	16.5	14.1	...	...	...	...
	18 and 19 years	35.9	50.0	34.1	...	...	...	...
	20 and 21 years	39.5	50.4	38.0	...	...	...	...
	22 to 24 years	34.6	38.1	34.2	...	...	...	...
	25 to 34 years	25.7	32.1	24.9	...	...	...	...
	35 to 44 years	33.4	44.1	32.4	...	...	...	...
	45 to 64 years	32.5	36.4	32.1	...	...	...	...
	65 years and over	7.8	10.6	7.6	...	...	...	...
WORKERS, BY WEEKS WORKED								
Male, 16 years	193 436	23 749	169 687	205	54	51	31	44
50 to 52 weeks	124 145	15 104	109 041	94	16	10	13	30
27 to 49 weeks	50 563	6 415	44 148	70	24	25	14	7
26 weeks or less	18 728	2 230	16 498	41	14	16	4	7
Female, 16 years old and over	102 915	13 092	89 623	142	42	5	27	41
50 to 52 weeks	46 469	5 218	41 251	64	14	-	19	17
27 to 49 weeks	33 525	4 501	29 024	38	20	5	5	-
26 weeks or less	22 921	3 373	19 548	40	8	-	3	24
CLASS OF WORKER, 16 YEARS OLD AND OVER								
Male employed	175 305	21 900	153 405	142	29	43	8	37
Private wage or salary workers	150 156	19 961	130 195	120	15	35	8	37
Government workers	19 824	1 355	18 469	15	7	8	-	-
Local government workers	10 839	729	10 110	8	-	8	-	-
Self-employed workers	5 241	579	4 662	7	7	-	-	-
Unpaid family workers	84	5	79	-	-	-	-	-
Female employed	82 477	10 013	72 464	108	34	-	22	33
Private wage or salary workers	70 227	8 936	61 291	52	16	-	11	6
Government workers	10 799	821	9 978	56	18	-	11	27
Local government workers	6 694	525	6 169	28	6	-	11	11
Self-employed workers	1 124	183	941	-	-	-	-	-
Unpaid family workers	327	73	254	-	-	-	-	-
Male employed, in agriculture	982	236	746	-	-	-	-	-
Wage or salary workers	896	231	665	-	-	-	-	-
Self-employed workers	86	5	81	-	-	-	-	-
Female employed, in agriculture	92	-	85	-	-	-	-	-
Wage or salary workers	67	7	60	-	-	-	-	-
Self-employed workers	19	-	19	-	-	-	-	-
Unpaid family workers	6	-	6	-	-	-	-	-
LABOR MOBILITY FOR MALES								
Male, 30 to 49 years old in 1970	103 845	11 175	92 670	74	28	12	13	21
Nonworker in 1965, nonworker in 1970	10 042	693	9 349	-	-	-	-	-
Nonworker in 1965, worker in 1970	11 049	1 320	9 729	-	-	-	-	-
Worker in 1965, nonworker in 1970	8 168	769	7 419	14	5	-	9	-

*The concept "worker" includes the employed plus members of the Armed Forces.